



भारत का राजपत्र The Gazette of India

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय
(वित्तीय सेवाएं विभाग)

नई दिल्ली, 20 दिसम्बर, 2022

का. आ. 1369.—राष्ट्रीय कृषि और ग्रामीण विकास बैंक (नाबार्ड) अधिनियम, 1981 (1981 का 61) की धारा 6 की उप-धारा (1) के खंड (ड.) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, निम्नलिखित अधिकारियों को अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, राष्ट्रीय कृषि और ग्रामीण विकास बैंक (नाबार्ड) के निदेशक मण्डल में निदेशक नियुक्त करती है:-

- (i) सचिव, कृषि, उत्तराखंड सरकार, देहरादून
- (ii) अपर मुख्य सचिव (कृषि), मध्य प्रदेश सरकार, भोपाल

- (iii) मुख्य आयुक्त, आरबीके एवं सरकार के विशेष मुख्य सचिव, कृषि एवं सहकारिता विभाग, एपी सचिवालय, वेलागपुडी, आन्ध्र प्रदेश सरकार
- (iv) प्रधान सचिव (वित्त, योजना एवं निवेश) अरुणाचल प्रदेश सरकार, इटानगर

[फा. सं. 7/3/2019-एसी]

चन्द्रगुप्त शौर्य, अवर सचिव

MINISTRY OF FINANCE**(Department of Financial Services)**

New Delhi, the 20th December, 2022

S.O. 1369.— In exercise of the powers conferred by clause (e) of sub-section (1) of Section 6 of the National Bank for Agriculture and Rural Development (NABARD) Act, 1981 (61 of 1981), the Central Government hereby appoints the following officials as Director on the Board of Directors of NABARD from the date of notification for a period of three years or until further orders, whichever is earlier:

- (i) Secretary, Agriculture, Government of Uttarakhand, Dehradun
- (ii) Additional Chief Secretary (Agriculture), Government of Madhya Pradesh, Bhopal
- (iii) Chief Commissioner, RBKs & Special Chief Secretary to Government, Agriculture & Cooperation Department, A.P. Secretariat, Velagapudi, Government of Andhra Pradesh,
- (iv) Principal Secretary (Finance, Planning & Investment), Government of Arunachal Pradesh, Itanagar

[F. No 7/3/2019-AC]

CHANDRAGUPTA SHAURYA, Under Secy.

विदेश मंत्रालय**(सी.पी.वी. प्रभाग)**

नई दिल्ली, 19 दिसम्बर, 2022

का. आ. 1370.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, सरकार भारत के राजदूतवास बीजिंग में अजय कुमार गणपति थोट्टेथोडि, सहायक अनुभाग अधिकारी को दिनांक 19 दिसम्बर 2022 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[फा. सं. टी. 4330/01/2022 (59)]

एस. आर. एच. फहमी, उप सचिव (कौंसुलर)

MINISTRY OF EXTERNAL AFFAIRS**(CPV DIVISION)**

New Delhi, the 19th December, 2022

S.O. 1370.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Ajay Kumar Ganapathibhat Thottethodi, Assistant Section Officer as Assistant Consular Officer in the Embassy of India, Beijing to perform the consular services as Assistant Consular Officer with effect from 19 December 2022.

[F. No. T. 4330/01/2022 (59)]

S. R. H FAHMI, Dy. Secy. (Consular)

नई दिल्ली, 19 दिसम्बर, 2022

का.आ. 1371.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, सरकार भारत के प्रधान कौंसलावास बीरगंज में अरुण चौहान और मनोज मिश्रा, सहायक अनुभाग अधिकारियों को दिनांक 19 दिसम्बर 2022 से सहायक कौंसुलर अधिकारियों के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[फा. सं. टी. 4330/01/2022 (60)]

एस. आर. एच. फहमी उप सचिव (कांसुलर)

New Delhi, the 19th December, 2022

S.O. 1371.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1048), the Central Government hereby appoints Shri Arun Chauhan and Shri Manoj Mishra, Assistant Section Officers as Assistant Consular Officers in the Consulate General of India, Birgunj to perform the consular services as Assistant Consular Officer with effect from 19 December 2022.

[F. No. T. 4330/01/2022 (60)]

S. R. H FAHMI, Dy. Secy. (Consular)

इस्पात मंत्रालय

नई दिल्ली, 11 अप्रैल, 2022

का.आ. 1372.—सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और भारत के राजपत्र में दिनांक 6 अप्रैल, 2019 को प्रकाशित भारत सरकार, इस्पात मंत्रालय की दिनांक 26 मार्च 2019, की अधिसूचना सं.का. आ. 489 को उन बातों के सिवाय अधिकृत करते हुए, जिन्हें ऐसे अधिक्रमण से पहले किया गया है या करने का लोप किया गया है, केंद्र सरकार, नीचे दी गई सारणी के स्तम्भ (1) में उल्लिखित अधिकारी, जो भारत सरकार के राजपत्रित अधिकारी के समतुल्य श्रेणी के अधिकारी हैं, को उक्त अधिनियम के प्रयोजनों के लिए सम्पदा अधिकारी नियुक्त करती है, जो उक्त सारणी के स्तम्भ (2) में तत्संबंधी प्रविष्टि में विनिर्दिष्ट सरकारी स्थानों के संबंध में अपने अधिकार क्षेत्र की स्थानीय सीमाओं में उक्त अधिनियम के तहत या उसके द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए सम्पदा अधिकारी को सौंपे गए कर्तव्यों का निष्पादन करेंगे, अर्थात्:-

सारणी

अधिकारी का पदनाम	सरकारी स्थानों की श्रेणियां और अधिकार क्षेत्र की स्थानीय सीमाएं
(1)	(2)
वरिष्ठ प्रबंधक (वैद्युत) ग्रेड-ई 3 बिसरा स्टोन लाइम कंपनी लिमिटेड (बीएसएलसी) मौजा, गौतम नगर में प्लॉट सं. 428/3855, जयदेव नगर, लुईस रोड नागेश्वर टांगी भुवनेश्वर-751002.	मैसर्स बिसरा स्टोन लाइम कंपनी लिमिटेड द्वारा स्वाधिकृत अथवा पट्टे पर धारित सभी कार्यालय, परिसर, कारखाने, संयंत्र, अतिथिगृह कार्यशालाएं रेलवे साइडिंग्स, प्रयोगशालाएं, एक्सप्लोसिव मैगजीन, व्यावसायिक प्रशिक्षण केन्द्र, अस्पताल एवं औषधालय, रिहायशी आवास अथवा निवास स्थान, भूमि जो निम्नलिखित में से किसी भी क्षेत्र में पड़ते हों:- (i) वीरमित्रपुर और राऊरकेला सुंदरगढ़ जिला, ओडिशा; और (ii) कोलकाता, जिला-कोलकाता, पश्चिम बंगाल.

[फा. सं. 10(14)/2021-बीजीसी)

नीरज अग्रवाल, निदेशक

MINISTRY OF STEEL

New Delhi, the 11th April, 2022

S.O. 1372.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), and in supersession of the notification of the Government of India in the Ministry of Steel number S.O. 489, dated 26th March 2019, published in the Gazette of India, dated the 6th April, 2019, except as respects things done or omitted in the done before such supersession, the Central Government hereby appoints the officer mentioned in column (1) of the Table below, being an officer equivalent to the rank of Gazetted Officer of Government of India, to be Estate Officer for the purposes of the said Act, who shall exercise the powers conferred and perform the duties imposed on the Estate Officer by or under the said Act, within the local limits of his jurisdiction in respect of the public premises specified in the Corresponding entry in column (2) of the said Table, namely:-

TABLE

Designation of Officer	Categories of the public premises and local limits of jurisdiction
(1)	(2)
Senior Manager (Electrical) Grade: E3 The Bisra Stone Lime company Limited(BSLC). Plot No. 428/3855 at Mouza, Goutam Nagar, Jayadev Nagar, Lewis Road, Nageswar Tangi, Bhubaneswar-751002.	All offices, premises, factories, plants, guest houses, workshops, railway sidings, laboratories, explosive magazines, vocational training centers, hospital or dispensaries, residential quarters or accommodation, land owned or held on lease by M/s Bisra Stone Lime Company Limited, falling in any of the following areas:- (i) Birmittapur and Rourkela Sundergarh District, Odisha; and (ii) Kolkata, District- Kolkata, West Bengal.

[F. No. 10(14)/2021-BGC]

NEERAJ AGRAWAL, Director

वाणिज्य और उद्योग मंत्रालय
(उद्योग संवर्धन और आंतरिक व्यापार विभाग)

नई दिल्ली, 16 दिसम्बर, 2022

का.आ. 1373.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 के नियम 10 के उप-नियम (4) के अनुसरण में उद्योग संवर्धन और आंतरिक व्यापार विभाग के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालयों, जिनके 80% से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है:

1. भारतीय गुणवत्ता परिषद्, बहादुर शाह जफर मार्ग, नई दिल्ली
2. राष्ट्रीय डिजाइन संस्थान, मध्य प्रदेश

[फा. सं. ई- 11017/3/2022-हिंदी]

राजेश कुमार सिंह, संयुक्त सचिव

MINISTRY OF COMMERCE AND INDUSTRY
(Department for Promotion of Industry and Internal Trade)

New Delhi, the 16th December, 2022

S.O. 1373.—In pursuance of Sub-Rule (4) of Rule 10 of the official language (Use for official purposes of the Union) Rules 1976, the Central Government hereby notifies the following offices under administrative control of Department for Promotion of Industry & Internal Trade whose more than 80% staff have acquired working knowledge of Hindi:

1. Quality council of India, Bahadur Shah Zafar Marg, New Delhi
2. National Institute of Design, Madhya Pradesh

[F. No. E-11017/3/2022-Hindi]

RAJESH KUMAR SINGH, Jr. Secy.

वाणिज्य एवं उद्योग मंत्रालय
(वाणिज्य विभाग)

नई दिल्ली, 3 नवम्बर, 2022

का.आ. 1374.—केन्द्रीय सरकार, निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) के साथ पठित निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) नियम, 1964 के नियम 12, के उपनियम (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, डॉ. अमिन कंट्रोलर्स प्राइवेट लिमिटेड, एचआईजी- 30, हाउसिंगबोर्ड कोलोनी, मधुवन, पारादीप, जगतसिंहपुर जिला, ओडिशा-754142, (जिसे एतदपश्चात् उक्त अभिकरण कहा जायेगा), को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए, वाणिज्य मंत्रालय की शासकीय राजपत्र में प्रकाशित भारत सरकार की अधिसूचना के साथ अनुसूची में निर्दिष्ट दिनांक 20 दिसम्बर, 1965 की अधिसूचना की सं० का.आ. 3975 के तहत प्रकाशित अधिसूचना में उपाबद्ध अनुसूची में विनिर्दिष्ट समूह-I, अर्थात् लौह अयस्क, को निर्यात से पूर्व निम्नलिखित शर्तों के अधीन पारादीप पत्तन, धामरा पत्तन और गोपालपुर पत्तन में उक्त खनिज और अयस्क के निरीक्षण करने के लिए एक अभिकरण के रूप में मान्यता देती है, अर्थात् :

- (i) यह अभिकरण, खनिज और अयस्क समूह-I का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण की पद्धति की जाँच करने के लिये निर्यात निरीक्षण परिषद् द्वारा निमित्त नाम निर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं देगी, और;
- (ii) यह अभिकरण, इस अधिसूचना में यथा विनिर्दिष्ट अपने कार्यों का निष्पादन करने के लिए, निदेशक (निरीक्षण और गुणवत्ता नियंत्रण) निर्यात निरीक्षण परिषद् द्वारा समय-समय पर, लिखित रूप में, दिए गए निर्देशों से आबद्ध होंगी।

[फा. सं. के-16014/05/2022 - निर्यात निरीक्षण]

एम. बालाजी, संयुक्त सचिव

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

New Delhi, the 3rd November, 2022

S.O. 1374.—In exercise of the powers conferred by sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognises M/s Dr. Amin Controllers Pvt. Ltd. HIG-30, Housing Board Colony, Madhuban, Paradip, Jagatsinghpur District, Odisha-754142, (hereinafter referred to as the said agency), as an agency for a period of three years with effect from the date of publication of this notification in the Official Gazette, for the inspection of Minerals & Ores, Group- I, namely – Iron Ore, as specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce, published in the official Gazette *vide* number S.O.3975 dated 20th December, 1965 and respectively, prior to export of the said Minerals and Ores at Paradip Port, Dhamra Port, and Gopalpur Port subject to the following conditions, namely: -

- (i) the said agency shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to carry out the inspection specified under rule 4 of the Export of Minerals and Ores – Group I (Inspection) Rules, 1965;

- (ii) the said agency, in performance of their function as specified in this notification shall be bound by such directions, as the Director (Inspection and Quality Control), Export Inspection Council may give, in writing from time to time.

[F. No. K-16014/05/2022 - Export Inspection]

M. BALAJI, Jt. Secy.

नई दिल्ली, 3 नवम्बर, 2022

का.आ. 1375.—केन्द्रीय सरकार, निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) के साथ पठित निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) नियम, 1964 के नियम 12, के उपनियम (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स टीसीआरसी इंस्पेक्शन प्राइवेट लिमिटेड- विशाखापत्तनम ब्रांच, डोर नंबर 24-1-4, पहला माला और दूसरा माला, रेट्रोफिट हाउस, थोम्पसॉस स्ट्रीट वन टाउन, पुराण डाकघर, वार्ड नंबर 25, ग्राम: विशाखापत्तनम मंडल, जिला: विशाखापत्तनम, पिन कोड 530001, (जिसे एतदपश्चात् उक्त अभिकरण कहा जायेगा), को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए, वाणिज्य मंत्रालय की शासकीय राजपत्र में प्रकाशित भारत सरकार की अधिसूचना के साथ अनुसूची में निर्दिष्ट दिनांक 20 दिसम्बर, 1965 की अधिसूचना की संख्या का.आ. 3975 तथा दिनांक 20 दिसम्बर, 1965 की अधिसूचना की संख्या का.आ. 3978 के तहत प्रकाशित अधिसूचना में उपाबद्ध अनुसूची में विनिर्दिष्ट समूह-I, अर्थात् लौह अयस्क, और मैंगनीज अयस्क और (समूह- II), अर्थात् बैराइट्स को निर्यात से पूर्व निम्नलिखित शर्तों के अधीन विशाखापत्तनम पत्तन, गंगावरम पत्तन और कृष्णापत्तनम पत्तन में उक्त खनिज और अयस्क के निरीक्षण करने के लिए एक अभिकरण के रूप में मान्यता देती है, अर्थात् :

- (i) यह अभिकरण, खनिज और अयस्क समूह-I का निर्यात (निरीक्षण) नियम, 1965 तथा खनिज और अयस्क समूह-II का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण की पद्धति की जाँच करने के लिये निर्यात निरीक्षण परिषद् द्वारा निमित्त नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं देगी, और;
- (ii) यह अभिकरण, इस अधिसूचना में यथा विनिर्दिष्ट अपने कार्यों का निष्पादन करने के लिए, निदेशक (निरीक्षण और गुणवत्ता नियंत्रण) निर्यात निरीक्षण परिषद् द्वारा समय-समय पर, लिखित रूप में, दिए गए निर्देशों से आबद्ध होंगी।

[फा. सं. के-16014/7/2022-निर्यात निरीक्षण]

एम. बालाजी, संयुक्त सचिव

New Delhi, the 3rd November, 2022

S.O. 1375.—In exercise of the powers conferred by sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognises M/s TCRC Inspections Private Limited - Visakhapatnam Branch, Door No : 24-1-4, 1st And 2nd Floor , Retrofit House , Thompsons Street One Town Old Post Office, Ward -25, Village Visakhapatnam (U) Mandal, Visakhapatnam District, Pin Code - 530001 Andhra Pradesh, (hereinafter referred to as the said agency), as an agency for a period of three years with effect from the date of publication of this notification in the Official Gazette, for the inspection of Minerals & Ores, (Group-I), namely, Iron Ore and Manganese Ore and (Group-II), namely, Barytes as specified, in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce, published in the official Gazette vide number S.O. 3975, dated the 20th December, 1965, and S.O.3978 , dated the 20th December, 1965 respectively, prior to export of the said Minerals and Ores at Visakhapatnam Port, Gangavaram Port and Krishnapatnam port subject to the following conditions, namely: -

- (i) the said agency shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to carry out the inspection specified under rule 4 of the Export of Minerals and Ores – Group I (Inspection) Rules, 1965 and Export of Minerals and Ores – Group II (Inspection) Rules, 1965;

- (ii) the said agency, in performance of their function as specified in this notification shall be bound by such directions, as the Director (Inspection and Quality Control), Export Inspection Council may give, in writing from time to time.

[F. No. K-16014/7/2022-Export Inspection]

M. BALAJI, Jt. Secy.

श्रम और रोजगार मंत्रालय

नई दिल्ली, 25 जुलाई, 2022

का.आ. 1376.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सदस्य सचिव, केन्द्रीय रेशम बोर्ड, कपड़ा मंत्रालय, सरकार भारत, बेंगलूर, ;निर्देशक, केन्द्रीय रेशम बोर्ड, कपड़ा मंत्रालय, सरकार भारत, रांची झारखंड, रांची, सहायक निदेशक, केन्द्रीय तसर अनुसंधान प्रशिक्षण संस्थान, (विस्तार) केंद्र, केन्द्रीय रेशम बोर्ड, कोरबा, के प्रबंधन के संबद्ध नियोजकों और श्री विशाल दास, कामगार, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. CGIT/LC/R/115/2004) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 28.06.2022 को प्राप्त हुआ था।

[सं. एल-42012/275/2003- आई.आर (सी.एम-II)]

डी.के. हिमांशु, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 25th July, 2022

S.O. 1376.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/115/2004) of the Central Government Industrial Tribunal cum Labour-Jabalpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Member Secretary, Central Silk Board, Ministry of Textile, Govt. of India, Bangalor,;The Director Central Silk board, Ministry of Textile, Govt. of India, Ranchi Jharkhand, Ranchi,; The Assistant Director, Central Tasar Research Training Institute, (Extension Centre,Central Silk Board, Korba, and Shri Vishal Das, Worker, which was received along with soft copy of the award by the Central Government on 28/06/2022.

[No. L-42012/275/2003 -IR (CM-II)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR
NO. CGIT/LC/R/115/2004**

Present: P.K.SRIVASTAVA, H.J.S..(Retd)

Shri Vishal Das,
S/o Shri Harnam Das,
Village Rampur, Via Katghora
District Korba, Chhattisgarh

.... Workman

Versus

The Member Secretary
Central Silk Board
Ministry of Textile ,
Govt. of India, CSB Complex

BTM Layour, Medivala
Bangalore-560068.

The Director
Central Silk Board,
Ministry of Textile, govt. of India,
Village and PO Piska Nagadi,
District Ranchi, Jarkhand
Ranchi 825303

The Assistant Director,
Central Tasar Research Training Institute,
Extension Centre), Central Silk Board,
Village & PO-Katghora,
District Korba, Chhattisgarh

... Management

AWARD
(Passed on 14-6-2022.)

As per letter dated 8-11-2004 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No.L-42012/275/2003-IR(CM-II). The dispute under reference relates to:

“Whether the action of the management of Central Tasar Research and Training Institute (under silk Board) in terminating the services of Sh. Vishaldas, S/o Shri Harnam Das and regularising the services of his juniors overlooking his seniority is legal and justified? if not, to what relief the workman is entitled to ? ”

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their respective statement of claim/defence.

2. The case of the workman as stated in his statement of claim is that the workman was working in the Rampur Farm of Management under O.P.No.3 i.e. The Assistant Director, Central Tasar Research Training Institute (Extension Centre) Central Silk board since 1984 and engaged in rearing work for so many years. The non-applicants collected employees provident fund subscriptions from his wages regularly till 2001 but never supplied the EPF slips. The workman approached the management to regularize his services but the Management terminated his services instead of regularizing without any notice or compensation which is against law. The workman raised a dispute before the Assistant Labour Commissioner Central Bilaspur. After failure of conciliation, the reference was sent by the Central Government to this Tribunal for adjudication. According to the Workman the action of management in terminating the workman without any notice or compensation or inquiry is illegal and arbitrary because the workman had completed continuous service of more than 240 days in every year including the year preceding the date of his termination. It is violative of Section 25F of the Industrial Disputes Act, 1947 (hereinafter referred to as the word 'Act'). Accordingly the workman has prayed that setting aside his termination, he be reinstated with all back wages and benefits.

3. The case of management in brief is that the Management is a Research Institute engaged in production of tasar silkworm basic seed, production of seed cocoons by conducting rearing's of tasar silk worms, raising and maintenance of eco plantation of tasar food plants; and training of farmers and rearers. It cannot be said to be an industry within the meaning of Section 2(j) of the Act. It is also the case of the Management that each season the daily wagers are engaged for conducting seasonal activity generally from 45 to 50 days in one spell. It never extends to 140 days in three spell in a year. After completion of one season, the daily wagers are discontinued. They are engaged from labour market and paid on daily basis. The workman might also be one of the daily wagers. He has not been appointed against any vacancy following the recruitment procedure. Hence his dis-engagement does not fall under Section 2(oo) (b) of the Act. The workman is not entitled to be regularized in the light of the law laid down by Hon'ble the Apex Court in the case of **State of M.P. & Others Vs. Lalit Kumar Verma** (2007) 1 SCC 575. Accordingly the management has prayed that the reference be answered against the workman.

4. The workman has filed rejoinder, wherein he has reiterated his claim as mentioned in his statement of claim. The workman filed an application for directing the Management to produce original documents as mentioned in the application and affidavit which was allowed by my learned Predecessor. It was also mentioned in the order allowing the application that in case the management fails to produce these documents summoned, the workman shall be at liberty to prove these documents by way of secondary evidence.

5. The workman filed his affidavit as his examination in chief. He was cross-examined by learned counsel for the Management. The workman did not care to prove any photocopy documents. The Management

has not examined any witness. During the course of proceedings the workman died and his legal representative were brought on record.

6. None appeared from the side of the workman at the time of argument. No written argument was filed. I have heard arguments of Shri R.C. Shrivastava, learned counsel for the Management and have gone through the record.

7. **The Reference is the issue, for determination in the case in hand.**”

8. The pleadings of the parties have been elaborated earlier. Before entering into merits, the following provisions (Section 2(j), 2(oo)(b), 25B and 25F of the Industrial Disputes Act, 1947) are being referred as follows:-

Section 2(j) “INDUSTRY” MEANS ANY BUSINESS, TRADE, UNDERTAKING, MANUFACTURE OR CALLING OF EMPLOYERS AND INCLUDES ANY CALLING, SERVICE, EMPLOYMENT, HANDICRAFT, OR INDUSTRIAL OCCUPATION OR AVOCATION OF WORKMEN;

2 [(oo) “retrenchment” means the termination by the employer of the service of a workman for any any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include— (a) voluntary retirement of the workman;

or (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf;

Section 25 B:-

Definition of continuous service.-

(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman; (2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer- (a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than- (i) one hundred and ninety days in the case of a workman employed below ground in a mine; and (ii) two hundred and forty days, in any other case; (b) for a period of six months, if the workman, during a period of six calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than- (i) ninety-five days, in the case of a workman employed below ground in a mine; and (ii) one hundred and twenty days, in any other case.

25F. Conditions precedent to retrenchment of workmen.- No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice: 1[*] (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay 2[for every completed year of continuous service] or any part thereof in excess of six months; and (c) notice in the prescribed manner is served on the appropriate Government 3[or such authority as may be specified by the appropriate Government by notification in the Official Gazette.]**

9. In the light of the decision of Hon'ble the Apex court in the case of **Bangalore Water Supply Board Vs. A.Rajappa and Others**, AIR (1978)SC 553, the Management is an industry as defined in the Act and is held accordingly.

10. For getting his termination declared against law the workman has to prove firstly his continuous engagement for 240 days or more in a year atleast in the year preceding the date of his dis-engagement and secondly that his services were terminated without any notice or compensation.

11. As regards the point of continuous service, there is on record the self serving statement of workman on oath. The workman side has not cared to prove the photocopy documents though they were given permission to

prove it by way of secondary evidence. In his affidavit as his examination in chief, he has reiterated his case as mentioned above. He has stated that he was first engaged on 13-2-1985 and disengaged on 15-7-1999. In his cross examination, he admitted that he had worked only for four to five months in a year for which he as paid. Hence it is held that the workman could not prove his continuous engagement for 240 days in a year as defined under Section 25B of the Act. The fact that he was dis-engaged without any notice or compensation is not disputed between the parties. In the light of the above finding, the dis-engagement of the workman is held not against law. Consequently, the workman is held not entitled to any relief.

12. On the basis of the above discussion, following award is passed:-

A. The action of the management "of Central Tasar Research and Training Institute (under silk Board) in terminating the services of Sh. Vishaldas, S/o Shri Harnam Das and regularising the services of his juniors overlooking his seniority is held not against law.

B. The workman is held entitled to no relief.

13. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 14-6-2022

नई दिल्ली, 22 अगस्त, 2022

का.आ. 1377.—केंद्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथा संशोधित, 1987) के नियम 10 के उप-नियम (4) के अनुसरण में, श्रम और रोजगार मंत्रालय के प्रशासकीय नियंत्रणाधीन निम्नलिखित कार्यालयों को, जिनके 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है:

1. राष्ट्रीय करियर सर्विस संस्थान (एनआईसीएस), नोएडा

[सं. ई-11016/1/2022-रा.भा.नी]

निकोलस खलखो, उप निदेशक (रा.भा.)

New Delhi, the 22nd August, 2022

S.O. 1377.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Language (Use for official purposes of the Union) Rules, 1976 (as amended, 1987) the Central Government hereby notifies the following offices under the administrative control of the Ministry of Labour & Employment, more than 80% Staff whereof have acquired working knowledge of Hindi:-

1. National Institute for Career Service, Noida

[No. E-11016/1/2022-RBN]

NICHOLAS XALXO, Dy. Director (OL)

नई दिल्ली, 14 दिसम्बर, 2022

का.आ. 1378.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दक्षिण पूर्व मध्य रेलवे प्रबंध तंत्र के सबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ सं. 94/2013) को प्रकाशित करती है !

[सं. एल-41012/32/2001- आई आर (बी-1)]

ए. के. यादव, अवर सचिव

New Delhi, the 14th December, 2022

S.O. 1378.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 94/2013) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur as shown in the Annexure, in the industrial dispute between the management of South East Central Railway and their workmen.

[No. L-41012/32/2001- IR(B-1)]

A. K. YADAV, Under Secy.

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR
NO. CGIT/LC/R/94/2013

Present: P.K.SRIVASTAVA, H.J.S..(Retd)

Shri Abhay Kumar Jha
 C/oArun Kumar,
 Railway Quarter No.1414,
 Railway Colony,Station Ward
 Bharatpara,District Baloda Bazar(CG)

... Workman

Versus

The Divisional Railway Manager,
 SEC Railway
 DRM Complex,
 Raipur(CG)

2.Sr.Section Engineer(P.Way)
 South East Central Railway
 Bhatapara,District Baloda Bazar(CG)

... Management

AWARD

(Passed on 11-11-2022.)

As per letter dated 25/10/2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-41012/32/201-IR(B-1). The dispute under reference relates to:

“Whether the action of the DRM Sec. Railway Raipur with regard to imposition of penalty viz. stoppage of one year annual increment for the year 2012-13 with non cumulative effect on Shri Abhay Kumar Jha and 14 other trackmen, namely S/Shri Nilesh Kumar, Rakesh Kumar, Sharad Kumar Sende, Om Prakash Ghanelia, shanty L.Dan, Anwar Hussain, Nikesh Kumar Dhruv, Jitendra Kumar, Ajay Kumar, Umesh Kumar Rai, Lekhram, Balram, Dasrath & Lakhanlal is legal and justified? To what relief the workmen are entitled?.”

1. After registering the case on the basis of reference, notices were sent to the parties. The workman never appeared . They did not file any statement of claim.
2. The Management filed its written statement of defense, wherein it was stated that the applicant workmen are 15 in number and working as Trackman under Senior Section Engineer(P.Way)Bhatapara. They were charged with minor penalty Charge sheet (SF-11) with an allegation that during conducting footplate inspection on 10/11-2-2012 in Train No.12833 Down Ahmedabad Express by the Dy. Chief Engineer/HQ/Bilaspur the workmen were not found on night patrolling duty in the track which is gross violation of the safety measures . They filed reply to the charge sheet but being dis-satisfied and not convinced with the reply, the Disciplinary Authority passed the impugned order of punishment on 12-5-2012 imposing stoppage of one year annual increment with non-cumulative effect. They preferred an appeal which was dismissed by the Appellate Authority on 14-11-2012. A mercy petition against this order was also filed. Accordingly, it has been prayed that the reference be answered against the workman.
3. No evidence was produced from the side of the workman and Management also attested true copy of inquiry papers. No other evidence was also filed by the Management.
4. None appeared from the side of the applicant workman at the stage of arguments, hence argument of learned counsel for the Management Shri R.K.Soni were heard and record has been produced by me.
5. **The Reference is the issue for determination, in the case in hand.**
6. The initial burden to prove his claim is on the workman in which they have miserably failed by not adducing any evidence, hence holding the action of Management gal and proper, the reference deserves to be answered against the workman and is answered accordingly.
7. On the basis of the above discussion, following award is passed:-

A. The action of the DRM Sec. Railway Raipur with regard to imposition of penalty viz. stoppage of one year annual increment for the year 2012-13 with non cumulative effect on Shri Abhay Kumar Jha and 14 other trackmen, namely S/Shri Nilesh Kumar, Rakesh Kumar, Sharad Kumar Sende, Om Prakash Ghanelia, shanty L.Dan, Anwar Hussain, Nikesh Kumar Dhruv, Jitendra Kumar, Ajay Kumar, Umesh Kumar Rai, Lekhrum, Balram, Dasrath & Lakhanlal is held to be just and proper.

B. The workman is held entitled to no relief.

8. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P.K.SRIVASTAVA, Presiding Officer

DATE: 11-11-2022

नई दिल्ली, 15 दिसम्बर, 2022

का.आ. 1379.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे प्रबंध तंत्र के सबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ सं. 124/2017) को प्रकाशित करती है !

[सं. एल-41011/45/2016- आई आर (बी-1)]

ए. के. यादव, अवर सचिव

New Delhi, the 15th December, 2022

S.O. 1379.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.124/2017) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen.

[No. L-41011/45/2016- IR(B-1)]

A.K YADAV, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/124/2017

Present: P.K.SRIVASTAVA, H.J.S.(Retd.)

Shri Arvind & other's
C/o The Divisional Secretary,
Paschim Railway Karmachari Parishad (PRKP),
Western Railway, Ratlam Division,
Ratlam (M.P.) – 457001.

Versus

....Workman

The Divisional Railway Manager,
Western Railway, Ratlam Division,
Ratlam (M.P.) – 457001...

..Management

AWARD**(Passed on this 13th day of October-2022)**

1. As per letter dated 10/08/2017 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-14011/45/2016-IR(B-1). The dispute under reference relates to:

"Whether the action management of General Manager, Western Railway H.Q, Mumbai in denying the benefit of counting of past service of Rly. Consumer Co-operative Society for pension purposes to Mr.Arvind Gopal, Mr.Balwant Singh, Mr.B.D Vajpai, Mr.Suresh Dubey, Mr.Devi Singh, Smt. Mangla Dubey, Mr.Sudhir Kant Dubey and Mr.Monohar Lal (Total 8 persons), who got absorbed in Rly.service, is justified and legal? If not to what relief they are entitled."

2. After registering the case on the basis of reference, notices were sent to the parties on addresses' mention in the reference. Management represented through there learned counsel Shri R.K.Soni, Adv. None appeared for Workman inspite of service of speed post. Many dates were given for filling of Statement of Claim. No Statement of Claim was filed. The opposite parties also did not file any Written Statement of Defence.

3. Since the initial burden to prove its case is on the workman side in which he has failed. Hence the reference deserves to be answered against him and is answered accordingly.
4. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P.K. SRIVASTAVA, Presiding Officer

DATE: 13-10-2022

नई दिल्ली, 19 दिसम्बर, 2022

का.आ. 1380.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, नंबर 1, धनबाद के पंचाट (संदर्भ सं. 88/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18.11.2022 को प्राप्त हुआ था।

[सं. एल-20012/99/2014- आई.आर(सी.एम- I)

मणिकंदन एन, उप निदेशक

New Delhi, the 19th December, 2022

S.O. 1380.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.88/2014) of the Central Government Industrial Tribunal-cum-Labour Court, No.1, DHANBAD as shown in the Annexure, in the industrial dispute between the Management of B.C.C.L. and their workmen, received by the Central Government on 18.11.2022

[No. L- 20012/99/2014 – IR (CM-I)]

MANIKANDAN N, Dy. Director

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD**

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947.

Reference: No. 88/2014

Employer in relation to the management of Sendra Bansjora Colliery of M/s. BCCL.

AND.

Their workman.

Present: Shri DINESH KUMAR SINGH, Presiding Officer.

Appearances:

For Employer :- Sri D.K. Verma, Advocate.

For workman :- Sri K.N. Singh, Representative.

State : Jharkhand.

Industry:- Coal

Dated 27/09/2022

AWARD

By Order No. L-20012/99/2014- (IR(CM-I)) dated 30.09.2014, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of Sendra Bansjora Colliery of M/s BCCL in not providing employment to Sri Shiv Prasad Bais, dependant son of Late Chhotelal Bais under the provisions of NCWA is fair and justified? To what relief the dependent son of deceased employee is entitled to?”

2. After receipt of the reference, both the parties were noticed. The Secretary, U.C.W. Union has filed his written statement of claim on 12/05/2015 and the management of Sendra Bansjora Colliery of M/s. BCCL has filed its written statement cum rejoinder on 26/08/2015.

The Secretary, U.C.W. Union has filed rejoinder to the written statement of the management on 13/10/2015.

3. The claim of the sponsoring union as per its statement of claim, in brief, is as follows:-

That Late Chhotelal Bias was a permanent employee of Sendra Bansjora Colliery designated as H.C.W. bearing his personal no. 100255 and he died on 29/02/1989 while in service. After death of Late Chhotelal Bias his dependent son namely Shiv Prasad Bias applied for compassionate appointment under NCWA but the management did not take care into the matter and failed to provide employment to him. Thereafter the dependent son of the deceased employee submitted an application for going on “Amaran Ansan” w.e.f. 18/12/2012 and subsequently the management in order to gain time falsely assured the dependent son but lastly on 09/01/2013 regretted his claim vide letter dated 2/3.1.2013. Thereafter the dependent son of the deceased took up the matter before the union and subsequently an industrial dispute was raised before the Labour Commissioner but after long discussion the matter could not settle and a failure report was submitted by the Conciliation Officer on 06/08/2014 resulting the present reference case. The action of the management in not providing employment to the dependent of the deceased employee is illegal and against the principle of natural justice.

A prayer has been made to pass an award in favour of the dependent son of the deceased employee.

4. On the other hand the case of the management as per written statement cum rejoinder, in brief, is as follows:-

That the present reference is not maintainable either in law or in facts and no employer-employee relationship exists between Shiv Prasad Bias the applicant and the management of Sendra Bansjora Colliery under Sijua Area. The Late Chhotelal Bais was a permanent employee of Sendra Bansjora Colliery and he died on 29/03/1989 and after death of the deceased employee, the dependent of the deceased employee has not submitted proper application for his employment. The management had examined the application of the employment of the applicant (the dependent son of deceased employee) and found lot of discrepancies in his application. The management had issued several letters to the dependent of the deceased employee to rectify the discrepancies in the application but he failed to do so and employment was regretted. The sponsoring union has raised the issue after 25 years and demanded employment of the dependent son of the deceased employee which cannot be granted after the lapse of such a long period. The dependent son of deceased employee had not rectified the discrepancies pointed out by the management within the stipulated period, so this is a stale dispute and the applicant is not entitled for employment.

The management by way of rejoinder has stated that the statement made in Para-1 of the written statement of the union is a matter of record, the statement made in Para-2, 3, 4, 5, 6 and 8 of the written statement of the union are not correct, the statement made in Para-7, 9 and 10 of the written statement of the union are not relevant.

5. The sponsoring union has also filed rejoinder to the written statement of the management and has stated that the statement made in Para-1 of the written statement of the management requires no comment, the statement made in Para 2, 3, 6, 8 and 9 of the written statement of management are misleading and denied, the statement made in Para 5 of the written statement of management is matter of record, the statement made in Para-7, 11 and 12 of the written statement of management are evasive and the statement made in Para 10 of the written statement of management is incorrect.

6. The sponsoring union has examined only one witness. He is Shiv Prasad Bias.

The WW-1 Shiv Prasad Bias has deposed that his father Late Chhotelal Bias was a permanent employee of Sendra Bansjora Colliery having his personal no. 100255 and CMPF A/C No. D 386815, designated as H.C.M. and he died on 29/02/1989 while in service and after his death he had applied for compassionate employment under NCWA but the management did not provide him employment. He has also stated that he had submitted an application before the management for going on Amaran Dharna w.e.f. 18/12/2012 but the management in order to gain time, falsely assured him but subsequently regretted vide letter no. 1448/12, dated 2/3.1.13. He has also stated that he had represented before the management several time for the employment but the management kept mum over it whereas he is entitled for getting relief under Para 9.3.3 of NCWA. He has further deposed that the action of the management is not providing him job is not legal and justified.

In the cross-examination he has deposed that at present he is about 46 years old. He has denied the suggestion that he had applied after much delay.

7. The sponsoring union has proved the following documents in support of its case which are marked as:-

Exhibit W-1- Original Copy of Death Certificate of Chhotelal Bias.

Exhibit W-2- Original Copy of Death Certificate of Gudabli Devi.

Exhibit W-3- Original Copy of Letter No. 32/1187 dated 21/09/1990 of Sendra Bansjora Colliery addressed to Shiv Prasad Bias, son of Late Chhotelal Bias.

Exhibit W-4- Original Copy of Letter No. 35/942, dated 21/25.10.93 of Dy. Personnel Manager, Sendra Bansjora Colliery addressed to Shiv Prasad Bias, son of Late Chhotelal Bias.

Exhibit W-5- Original Copy of Certificate of Family Members Details of Late Chhotelal Bias.

Exhibit W-6- Original Copy of Letter No. 21/1448, dated 02/03-01-2013 of Project Officer, Sendra Bansjora colliery addressed to Shiv Prasad Bias, son of Late Chhotelal Bias regarding Hunger Strike.

Exhibit W-7- Original copy of Letter no. 15/1454, dated 7/8-01-2013 of Project Officer, Sendra Bansjora colliery addressed to Shiv Prasad Bias, son of Late Chhotelal Bias regarding employment.

8. On the other hand the management has also examined only one witness. He is MW-1, Nilesh Kumar.

The MW-1, Nilesh Kumar has deposed before the Tribunal that Chhotelal Bias was permanent employee of Sendra Bansjora Colliery, who died on 29/03/1989 and the application submitted by the claimant was not found proper as there was lot of discrepancies, so he was directed to remove the defects. He has further stated that the applicant had not rectified discrepancies in spite of several letters issued by the management, so the application of employment was regretted long ago. He has further stated that the dependent of the deceased employee has not rectified the discrepancies pointed out by the management within period, so he is not entitled for employment in BCCL. He has also stated that the sponsoring union had raised the dispute after the expiry of 25 years which is not justified.

In the cross-examination he has deposed that as the applicant could not file documents in time and on being direction he could not comply, his case was not forwarded to headquarter for action. He has denied the suggestion that the applicant had filed everything.

9. The management has not proved any documents in support of its case.

10. The representative of the sponsoring union has submitted before the Tribunal that father of the claimant Late Chhotelal Bias was a permanent employee of Sendra Bansjora colliery under Sijua Area of M/s. BCCL being appointed on 03/12/1964 as H.C.M. and he was declared medically unfit on 27/03/1989 who died on 29/03/1989 while in service. He has also submitted that as per rules of the company and according to the provisions of the NCWA dependent is entitled for employment in place of his father service and accordingly the claimant had applied for his own employment before the management just after

declaration of medical unfitness of his father on 27/03/1989 in the prescribed format. He has also submitted that the management after getting all the requirements fulfilled had forwarded the application of the claimant to the C.P.M. Sijua Area for necessary action through letter no. H.P./PD/90/32 1961 dated 22/28.8.1996 which was regretted by the headquarter vide letter no. dated 23/24.02.2000 but the same was not served to the claimant. He has also argued that after waiting for long period for the action of the management the claimant had submitted an application for going on Amaran Ansan but the management in order of taking time falsely assured the claimant but lastly regretted the employment vide letter dated 2/3.1.2013. He has also argued that the management has failed to establish their grounds in refusal to provide employment to the concerned claimant who was entitled for. He has made prayer for the compassionate appointment of the claimant is justified and proper.

11. The learned lawyer of the management has submitted that there is no employer-employee relationship between the Shiv Prasad Bias and the management of Sendra Bansjora Colliery under Sijua Area. He has also argued that Late Chhotelal Bias was an employee of Sendra Bansjora Colliery of M/s. BCCL who died on 29/03/1989 and after his death no one had applied for employment immediately but after the lapse of more than two years one Shiv Prasad Bais alleged to be son and the dependant of the deceased employee submitted application for employment which was not properly filled up. He has also submitted that on examination of the application of the employment by the management, lot of discrepancies had been found in the application and several letters were sent to the dependent of the deceased employee to rectify the discrepancies but he failed to do so. He has also submitted that after expiry of 25 years from the date of death of deceased employee and after expiry of 14 years from the date of refusal of employment by the management, the sponsoring union has raised the present industrial dispute and demanded employment which is not maintainable.

He has relied on the decision of Hon'ble Supreme Court as reported in **SCLJ 2001 (720) (Nedungadi Bank Limited vs. R.K. Madhavankutty)** in which the Hon'ble Supreme Court has been pleased to hold that A dispute which is stale could not be subject matter of reference u/s 10. He has also relied on the decision of Hon'ble Jharkhand High Court as reported in WP (L)No. 5498 of 2016 in which the Hon'ble Jharkhand High Court has pleased to hold that the decision of the Government of India whereby dispute regarding termination of the petitioner has been considered as not fit for adjudication on the ground of delay is legal and further be pleased to hold that the dispute is hopelessly and not maintainable.

He has also argued that the claimant had not rectified the discrepancies pointed out by the management within stipulated period and he was unable to show the original I.D. Card, so his case is doubtful. He has relied on the decision passed in (i) **Umesh Kumar Nagpal vs State of Haryana (reported in SCLJ 1998 page 232)** (ii) **Chhata Devi vs Bharat Coking Coal Ltd (reported in 2012(4) JLR 349)** (iii) **CCL vs Binod Kumar Tirky (in LPA No. 9 of 2017)**.

12. Now, the only point of determination in this case is whether the action of the management in denying employment to claimant Shiv Prasad Bias son of Late Chhotelal Bais is fair and justified? If not what relief he is entitled to?

FINDINGS

13. At the outset of discussion it is required to mention here that Late Chhotelal Bias was a permanent employee of Sendra Bansjora Colliery of M/s. BCCL and he died on 29/02/1989.

14. Now, the question of arises whether Shiv Prasad Bias son of deceased wokman Late Chhotelal Bias is entitled for appointment on compassionate ground?

15. In this regard, the most competent witness is WW-1, Shiv Prasad Bias who is the son of Late Chhotelal Bias. He has deposed before the Tribunal that after death of his father he had applied for compassionate appointment under NCWA but the management did not provide him employment. He has also stated that he had been falsely assured by the management but subsequently vide letter no. 1448/12 dated 2/3.1.12 management regretted. He has also deposed that he had represented several time before the management.

On the other hand the management had examined MW-1, Nilesh Kumar who has deposed that Late Chhotelal Bias died on 29/03/1989 and the application submitted by the claimant was not found proper as there was lot of discrepancies, so he was directed to remove the defects. He has also deposed that the applicant had not rectified the discrepancies in spite of several letters, so the application for employment was regretted.

16. Now, coming to the documentary evidence of the concerned workman it appears that the Exhibit W-1 is the original copy of Death Certificate of Late Chhotelal Bias, Exhibit W-2 is the original copy of Death Certificate of Gudabli Devi, Exhibit W-3 is the original copy of letter dated 21/09/1990 addressed to Shiv Prasad Bias by Sendra Bansjora Colliery for making rectification in his application, Exhibit W-4 is the

original copy of letter of Dy. Personnel Manager, Sendra Bansjora Colliery making request to Shiv Prasad Bias to submit the family list issued by Gazetted Officer, Exhibit W-5 is the original copy of family list of Late Chhotelal Bias, Exhibit W-6 is the letter of Project Officer, Sendra Bansjora Colliery addressed to Shiv Prasad Bias asking him to appear before manager with all documents, Exhibit W-7 is the letter of Project Officer, Sendra Bansjora Colliery dated 7/8-01-2013 informing that his request for appointment has already been regretted vide letter dated 02/04/1991.

17. Now after analyzing the documentary evidence, it appears that in this case the applicant, Shiv Prasad Bias had submitted his application for compassionate appointment within time before the management and it appears that he had also submitted all the required documents and same had been sent to regional office but his request was regretted vide letter dated 02/04/1991 as per letter dated 7/8.01.2013 (Exhibit W-7).

18. Further it appears peculiar that the Dy. Manager Personnel vide letter dated 21/10/1993 (Exhibit W-6) had asked for family list of Late Chhotelal Bias with a direction to submit within 15 days but letter dated 07/08-01-2013 shows that the request for appointment of Shiv Prasad Bias had been regretted vide letter dated 02/04/1991. Moreover the applicant Shiv Prasad Bias had been called vide letter dated 02/03.01.2013 with all the documents by the Project Officer, Sendra Bansjora Colliery but his request was regretted.

19. Now, after analysing all the oral and documentary evidence in this case it is quite apparent that the applicant Shiv Prasad Bias had complied all the direction of the management regarding removing of discrepancies to his request for appointment on compassionate ground but his case was not considered by the management within time.

20. The learned lawyer of the management has relied on the decision of Hon'ble Supreme Court as reported in **SCLJ 2001 Page 720** in which the Hon'ble Supreme Court has been pleased to hold as "A dispute which is stale could not be subject matter of reference u/s 10 of the Act. As to when a dispute can be said to be stale would depend on the facts and circumstances of each case."

21. Here in this case the reference has already been received to this Tribunal on 15/10/2014 and the matter was of the year 1989-1990.

In this regard it is required to mention here that the learned lawyer of management has not raised that this dispute is stale at the earliest stage but he has raised this issue after the conclusion of the proceeding and hearing of the of this case, so it is not maintainable at this stage. Moreover in this matter reference has already been made u/s 10 of I.D. Act.

22. The learned lawyer of management has relied on the decision of the Hon'ble Jharkhand High Court as reported in **WP(L) No. 5498 of 2016** in which the Hon'ble High Court has been pleased to hold as "it can comfortably be inferred that reference has rightly not been made because of belated claim. Although there was no limitation prescribed under the Act for making reference under Section 10(1) of the Industrial Disputes Act, the policy of industrial disputes clarifies that very stale claims should not be generally encouraged or allowed unless there is satisfactory explanations for the delay. Since no plausible reason has been given or explained or brought on record, this Court is fully satisfied that the reference itself was bad in law."

23. Here in this case reference has already been made by the Central Government with regard to the industrial dispute u/s 10 of I.D. Act, so the facts of this case is different from the facts on which the Hon'ble Jharkhand High Court has been pleased to hold its finding, so decision of Hon'ble Jharkhand High Court, Ranchi is not applicable in this case.

24. The learned lawyer of management has relied on the decision of Hon'ble Supreme Court as reported in **SCLJ 1998 Page 232** in which the Hon'ble Supreme Court has been pleased to hold as "The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family."

Here in this case the applicant Shiv Prasad Bias in his evidence has deposed that he had given an application before the management for appointment that he was going on Amaran Ansan for his appointment. Moreover the applicant Shiv Prasad Bias vide letter dated 18/12/2012 has stated that he is working as a Labour in brick kiln and he had not been providing employment after death of his father, so it appears that he has been in urgent need of employment after death of his father.

25. The learned lawyer of management has also relied on the decision of Hon'ble Jharkhand High Court as passed in **LPA No.9 of 2017** in which the Hon'ble Jharkhand High Court has been pleased to hold as "Thus, time limit to prefer compassionate appointment is only one year from the date of death of the father of the respondent (Original Petitioner). These aspects of the matter have not been properly appreciated by the learned Single Judge while allowing the writ petition and hence, wrongly the period of limitation has been calculated as one and half year."

Here in this case the dependent son of the deceased has regularly been knocking the door of the management for providing employment to him but the management had not considered his request and regretted his appointment vide letter dated 02/04/1991.

Moreover the management has not produced any documents to show the reasons of rejection of request of claimant for appointment on compassionate ground is delay in submission of application.

Further the son of the deceased namely Shiv Prasad Bias in his letter dated 18/12/2012 has mentioned that he has working as Labour in Brick Kiln, so still he suffering the hardship after death of his father. This is a classical example of callousness of the management toward the claim of son of deceased employee.

26. It is relevant to mention here that it is not the case of management that the claimant had submitted the application of employed at belated stage. Further after going through the documentary evidence of the workman it is quite apparent that it was the management which had made delay in processing the matter of appointment of the claimant, so it is not a stale dispute.

27. After considered all the facts and circumstances, the action of the management in not providing employment to Sri Shiv Prasad Bias, dependent son of Late Chhotelal Bias under the provision of NCWA is not fair and justified.

Hence, Shiv Prasad Bias, dependent son of deceased workman is entitled for job.

28. The management is, hereby, directed to provide employment to the Shiv Prasad Bias, dependent son of deceased workman within one month after publication of the Award in the Official Gazette.

This is the Award of this Tribunal.

Dictated and Corrected by me

DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 19 दिसम्बर, 2022

का.आ. 1381.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, नंबर 1, धनबाद के पंचाट के (संदर्भ सं. 62/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18.11.2022 को प्राप्त हुआ था।

[सं. एल-20012/11/2005- आई.आर(सी-1)]

मणिकंदन एन, उप निदेशक

New Delhi, the 19th December, 2022

S.O. 1381.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 62/2005) of the Central Government Industrial Tribunal-cum-Labour Court, No.1, DHANBAD as shown in the Annexure, in the industrial dispute between the Management of C.C.L. and their workmen, received by the Central Government on 18/11/2022.

[No. L-20012/11/2005 -IR (C-1)]

MANIKANDAN N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947.

Reference: No. 62/2005

Employer in relation to the management of Barka Sayal Area of M/s. CCL.

AND.

Their workman.

Present: Shri DINESH KUMAR SINGH, Presiding Officer.**Appearances:**

For the Employers :- None.

For the workman. :- None.

State : Jharkhand.

Industry:- Coal

Dated 30/06/2022

AWARD

By Order No.L-20012/11/2005-IR(C-I) dated 19.07.2005 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of Urimari Underground Project, Barka-Sayal Area, M/s Central Coalfields Limited, P.O.- Sayal, Distt- Hazaribag in terminating Shri Dasrath Munda, Piece Rated (Underground) Loader from the service w.e.f. 3.2.2003 is legal and justified? If not, to what relief is the workman entitled?”

2. The reference is received on 22/08/2005 by this Tribunal in which the Vice President, Rashtriya Colliery Mazdoor Sangh, CCL, Ranchi had been advised to submit statement of claim along with relevant document within fifteen days but the concerned union/workman did not appear before the Tribunal. However after receipt of the reference, both parties were noticed but neither the union/workman nor the management appeared before the Tribunal and the notice of the workman/union returned unserved. Now Case is pending since 22/08/2005 and workman/union as well as management is not appearing before Tribunal. so, it is felt that workman/union has lost its interest in this matter. Hence “No Claim” Award is passed. Communicate

D.K. SINGH, Presiding Officer

नई दिल्ली, 19 दिसम्बर, 2022

का.आ. 1382.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, नंबर 1, धनबाद के पंचाट के (संदर्भ सं. 79/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18.11.2022 को प्राप्त हुआ था।

[सं. एल-20012/581/2000-आई.आर(सी-1)]

मणिकंदन एन, उप निदेशक

New Delhi, the 19th December, 2022

S.O. 1382.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.79/2001) of the Central Government Industrial Tribunal-cum-Labour Court, No.1, DHANBAD as shown in the Annexure, in the Industrial dispute between the Management of B.C.C.L. and their workmen, received by the Central Government on 18/11/2022.

[No. L- 20012/581/2000 – IR (C-I)]

MANIKANDAN N, Dy. Director

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1, DHANBAD**In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947.**Reference: No. 79/2001**

Employer in relation to the management of Katras Chaitudih Colliery of Katras Area of M/s. BCCL.

AND.

Their workman.

Present: Shri DINESH KUMAR SINGH, Presiding Officer.

Appearances:

For the Employers :- Sri D.K. Verma, Advocate.

For the workman. :- None.

State : Jharkhand.

Industry:- Coal

Dated 30/06 /2022

AWARD

By Order No.L-20012/581/2000- (C-I) dated 16.03.2001 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of Katras Chaitudih Colliery of M/s BCCL in dismissing Sri Nathu Bouri, UG Miner/Loader from the service of the company w.e.f. 1.11.97 is justified? If not, to what relief is the concerned workman entitled?”

2. The reference is received on 03/04/2001 by this Tribunal in which the Vice President, Rashtriya Colliery Mazdoor Sangh, Dhanbad had been advised to submit statement of claim along with relevant document within fifteen days but the concerned union/workman did not appear before the Tribunal. However, after receipt of the reference, both parties were noticed and both parties appeared for certain dates, but subsequently workman/union left appearing before this Tribunal. Thereafter, again regd. notices were issued to both the parties but the notice issued to the concerned union returned unserved with endorsement that addressee left. Now this case is pending since 03/04/2001 and workman/union is not appearing before Tribunal, so it is felt that workman/union has lost its interest in this matter. Hence “No Claim” Award is passed. Communicate.

D.K. SINGH, Presiding Officer

नई दिल्ली, 19 दिसम्बर, 2022

का.आ. 1383.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधन के संबद्ध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, नंबर 1, धनबाद के पंचाट के (संदर्भ सं. 22/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18.11.2022 को प्राप्त हुआ था।

[सं. एल-20012/140/2005-आई.आर(सी-I)]

मणिकंदन एन, उप निदेशक

New Delhi, the 19th December, 2022

S.O. 1383.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 22/2006) of the Central Government Industrial Tribunal-cum-Labour Court, No.1, DHANBAD as shown in the Annexure, in the industrial dispute between the Management of B.C.C.L. and their workmen, received by the Central Government on 18.11.2022.

[No. L- 20012/140/2005 – IR (C-I)]

MANIKANDAN N, Dy Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947.

Reference: No. 22/2006

Employer in relation to the management of Kusunda Area of M/s. BCCL.

AND.

Their workman.

Present: Shri DINESH KUMAR SINGH, Presiding Officer.

Appearances:

For the Employers :- None.

For the workman. :- None.

State : Jharkhand.

Industry:- Coal

Dated 30/06 /2022

AWARD

By Order No.L-20012/140/2005-IR(C-I) dated 09.12.2005 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the demand of the Bihar Colliery Kamgar Union from the management of Basuriya Colliery under Kusunda Area of M/s. BCCL for regularizing Sri Bablu Bouri personnel No. 02905982 Miner/Loader as Trammer is justified? If so, to what relief is the workman entitled and from what date?”

2. The reference is received on 02/01/2006 by this Tribunal in which the Vice President, Bihar Colliery Kamgar Union, Dhanbad had been advised to submit statement of claim along with relevant document within fifteen days but the concerned union/workman did not appear before the Tribunal. However after receipt of the reference, both parties were noticed but neither the union/workman nor the management appeared before the Tribunal. Now Case is pending since 02/01/2006 and workman/union as well as management is not appearing before Tribunal. so, it is felt that workman/union has lost its interest in this matter. Hence “No Claim” Award is passed. Communicate

D.K. SINGH, Presiding Officer

नई दिल्ली, 19 दिसम्बर, 2022

का.आ. 1384.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महाप्रबंधक, हिंदुस्तान एयरोनॉटिक्स लिमिटेड, अमेठी के प्रबंधन के संबद्ध नियोजकों और महासचिव, हिंदुस्तान एयरोनॉटिक्स कर्मचारी संघ, अमेठी, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट के (संदर्भ सं. 151 का 2019) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 08.12.2022 को प्राप्त हुआ था।

[सं. एल-42011/93/2019- आईआर(डीयू)]

डी.के. हिमांशु, अवर सचिव

New Delhi, the 19th December, 2022

S.O. 1384.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 151 of 2019) of the Central Government Industrial Tribunal cum Labour Court – Kanpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to The General Manager, Hindustan Aeronautics Limited, Amethi and The General Secretary, Hindustan Aeronautics Karmchhari Sangh, Amethi, which was received along with soft copy of the award by the Central Government on 08.12.2022.

[No. L-42011/93/2019-IR(DU)]

D.K.HIMANSHU, Under Secy.

ANNEXURE

BEFORE SHRI SOMA SHEKHAR JENA, PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

Present: SOMA SHEKHAR JENA, HJS (Retd.)

I.D. No. 151 of 2019

L-42011/93/2019-IR(DU) dated 25.07.2019

BETWEEN

The General Secretary,
Hindustan Aeronautics Karmchari Sangh,
HAL, Korwa, Distt-Amethi
Amethi- 227412

AND

The General Manager,
Hindustan Aeronautics Limited,
Po-Korwa, Distt- Amethi,
Amethi-227412

AWARD

This award arises in respect of the reference mentioned in the schedule stated below as received from the Government of India, Ministry of Labour in letter No. L-42011/93/2019-IR(DU) dated 25.07.2019

SCHEDULE

‘Whether the action taken by management of HAL Korwa by changing duty timing and the time of intervening rest (Annexure-A) without any suitable compensation or consent of the Union is legal and justified, If not, to what relief the workmen is entitled to and to what extent?’

On receipt of notification, notices were issued to both the parties on 11th September 2019 fixing 27.09.2019 for filing of statement of claim. Representative of the Union was absent on date fixed though O.P management Authorized representative appeared and filed authority letter. Afterwards several dates were fixed for filing of statement of claim by the workers’s Union (The Hindustan Aeronautics Karamchari Sangh) or the workman.

On perusal of the record it is found that though several dates were fixed for filing the statement of claim, none appeared on behalf of the claimant Union before this Tribunal. Despite ample opportunities to the Union and the claimant workman for submitting statement of claim; the Union failed to present the case before the Tribunal. On 03.11.2022 the case was reserved for final award for non-appearance of the claimant Union.

From the aforesaid circumstances it is presumable that the Union is not interested in prosecuting the case further before this Tribunal.

Hence in the given circumstances the reference stands disposed of as of ‘NIL’ award.

Parties are left to bear their respective costs.

SOMA SHEKHAR JENA, Presiding Officer

नई दिल्ली, 19 दिसम्बर, 2022

का.आ. 1385.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महाप्रबंधक, हिंदुस्तान एयरोनॉटिक्स लिमिटेड विमान प्रभाग, चकेरी, कानपुर (यूपी); मालिक, मेसर्स कुशांग सिक्योरिटी एंड हाउस कीपिंग सर्विसेज प्रा. लिमिटेड, बडाला (ई), मुंबई के प्रबंधन के संबद्ध नियोजकों और श्री विजय कुमार मौर्य, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट के (संदर्भ सं. 91 का 2014) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.12.2022 को प्राप्त हुआ था।

[सं. एल-42012/85/2014-आईआर(डीयू)]

डी.के. हिमांशु, अवर सचिव

New Delhi, the 19th December, 2022

S.O. 1385.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 91 of 2014) of the Central Government Industrial Tribunal cum Labour Court – Kanpur, as shown in the Annexure, in the Industrial dispute between the employers in

relation to The General Manager, Hindustan aeronautics Ltd. Aircraft Division, Chakeri, Kanpur(U.P);The Proprietor, M/s Kushang Security & House Keeping Services Pvt. Ltd, Wadala(E), MUMBAI and Shri Vijay Kumar Maurya, worker which was received along with soft copy of the award by the Central Government on 19.12.2022.

[No. L- 42012/85/2014-IR(DU)]

D.K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE SHRI SOMA SHEKHAR JENA, PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT KANPUR

Present: SOMA SHEKHAR JENA HJS (RETD.)

I.D. No. 91 of 2014

No. L-42012/85/2014-IR(DU) dated 05/08/2014

BETWEEN

Shri Vijay Kumar Maurya
S/o Sh Shiv Nandan Maurya,
H.No. 274-B, Shiv Katra, Thana
Chakeri, Kanpur(U.P)-208007

AND

1. The General Manager,
Hindustan Aeronautics Ltd. Aircraft Division,
Chakeri, Kanpur(U.P)-208007
2. The Proprietor, M/s Kushang Security & House
Keeping Services Pvt. Ltd, Head Office,
760, Ambi Wadi, Saltpan Road, Wadala(E)
MUMBAI- 400037

AWARD

This award arises in respect of the reference mentioned in the schedule stated below as received from Ministry of Labour & Employment, Government of India vide notification no. 42012/85/2014-IR(DU) dated 05.08.2014

SCHEDULE

1. 'WHETHER THE ACTION OF THE MANAGEMENT OF HINDUSTAN AERONAUTICS LTD. M/S KAUSHANG SECURITY AND PROTECTION SERVICE IN TERMINATING THE SERVICE OF SHRI VIJAY KUMAR MAURYA S/O SHRI SHIV NANDAN MAURYA WORKMAN WITH EFFECT FROM 3/06/2013 IS JUST FAIR AND LEGAL? IF NOT, TO WHAT RELIEF THE WORKMAN CONCERNED IS ENTITLED TO?'

The averments of the claimant workman in the statement of claim may be concisely stated as follows:-

Claimant Vijay Kumar Maurya commenced his job on the designation of Technician in Dornier workshop of Hindustan Aeronautics Ltd. from 01.09.2010 and worked continuously till 18.08.2011. Claimant workman worked overtime for extra 2 hours daily from April 2011 to July 2011 for O.P management HAL. Even on weekend holidays officers took work of construction and assembling of airplanes from claimant workman. Claimant workman fulfilled all technical and non-technical terms and conditions issued by Hindustan Aeronautics Limited vide letter no. HAL/P&A/27(30)/97/187/27 dated 19 april 2001. Claimant workman worked for O.P management HAL for more than 240 days continuously from May 2012 to 03.06.2013. O.P management never slammed claimant workman with any charge sheet and no departmental enquiry was done before terminating the claimant workman. Claimant workman was not even provided with any compensation. O.P management took the work from claimant workman which should be performed by permanent employees. The act of O.P management Hindustan Aeronautics Limited terminating the service of claimant workman was unjust, unlawful and violation of section 25B and 25F of ID Act, 1947.

Stating as above claimant workman has prayed for a direction to reinstate him in job with continuity of services from the date of termination and also for disbursement for backwages and regularization of his job.

On behalf of O.P management written statement has been submitted with averments which may be summarized as stated below:-

Hindustan Aeronautics Ltd, TAD Kanpur(here-in-after stated in short as HAL, TAD) is registered under the Contractor Labour Regulation and Abolition Act,1970 and contractors engaged their workers. The contractors make payment to their workers and control them and supervise the workers. It has been specifically averred that the claimant was not a workman O.P HAL, TAD M/s Kushang Security and House Keeping Services Pvt Ltd. was the real employer of the claimant. There was no employer employee relationship between HAL, TAD and the claimant. Recruitment to the post of HAL, TAD is done as per the rules after publication of advertisement. It is stated that names of eligible candidates are also received from employment exchange. After written and oral test and interview the candidates are appointed on probation. After successful completion of probation the appointees are absorbed as regular and permanent employees. At no point of time O.P no. 1 HAL, TAD ever appointed the claimant in HAL, TAD or ever offered him job. M/s Kushang Security and Protection Services was assigned a contract under the Contract Labour (Regulation and Abolition) Act 1970. The claimant was employee of M/s Kushang Security and Protection Services (O.P No.2). The service of claimant was terminated by O.P no.2. On behalf of O.P no.2 no written statement has been submitted. In the rejoinder the claimant has claimed that he was the workman of HAL, Kanpur. It is further averred by claimant that from the written statement of O.P no.1 it is manifestly clear that he was doing regular job assigned to a post in the HAL, TAD. In substance, in the rejoinder the claimant has reiterated his claim for reinstatement with back wages and for regularization in job in the HAL, TAD in regular post.

The points to be answered for adjudication of this industrial dispute are as follows:-

1. Whether there was employer employee relationship between HAL, TAD, Kanpur and claimant workman Vijay Kumar Maurya?
2. Whether claimant workman is legally entitled for regularization of job in the HAL?
3. To what relief the claimant workman is entitled?

For convenience Point No. 1 and Point No. 2 are taken together for discussion:-

It stands almost undisputed that claimant workman Vijay Kumar Maurya had worked as security guard/watchman in the HAL and he had worked from 01.09.2010 upto 18.08.2011 and again for the period from 05.05.2012 upto 03.06.2013 pursuant to a settlement effected on 04.05.2012. It is vehemently contended on behalf claimant workman that the Kushang Security O.P NO.2 was not his employer, rather HAL was his master employer. In support of his stand claimant workman has heavily relied on the token issued to him bearing signature of security officer. He has pointed out that no agreement nor any paper has been filed on behalf of the O.P No. 1 (HAL) showing employer employee relationship between O.P NO.2 and the claimant workman and for non-filing of document by O.P No.1 conclusion is to be made that he was employed by O.P No. 1 (HAL) and O.P NO.1 should be taken as employer of claimant workman. He is to be deemed to have been employed by O.P No.1. In support of such stand the claimant workman has referred to documents marked papers 26/15 upto 26/18 showing engagement of Vijay Kumar Maurya in the shift in respect of Dornier aircraft. It is further submitted that contradictory evidence has been deposed by O.P witness Sanjeev Kumar Singh. It is further contended that in view of contradictory averments made by witness Sanjeev Kumar Singh at para 26 and para 6 of his deposition the claimant workman should be deemed to have been in direct employment of HAL. It is further contended by claimant that he was receiving cash as monthly salary from the officers of HAL who were not issuing any salary slip. It is further submitted that his re-engagement in the HAL pursuant to a settlement dated 04.05.2012 (marked W.Ext. NO.1) bolsters up his stand that there was employer employee relationship between himself and O.P NO. 1(HAL). The stand of the claimant workman that there was employer employee relationship between HAL and the workman appears to be illusory. Even to cross examination the workman has failed to prove any genuine appointment letter issued to him after undergoing any fair selection process conducted by HAL. It is vehemently contended on behalf of the claimant that the recruitment rules dated 26.10.1967 paper no. 16/8 subsequently amended in the year 1998 are silent as to in what manner the employees are to be absorbed. The argument on behalf of claimant workman is found to be nothing but feeble attempt to get absorption in the employment of HAL by some kind of back door entry which is impermissible in eye of law. At this point it appears pertinent to state that HAL is a Government of India undertaking in which recruitment is made by following strict guidelines and not by whimsical casual orders. Even if claimant workman might have worked exceeding 240 days for the period from 01.09.2010 upto 18.08.2011 he is not legally entitled for absorption in the employment of HAL contrary to the rigid rules of recruitment. It is also pertinent to state that when termination of a workman is effected without issuance of notice or payment of notice pay and compensation enshrined in section 25 F of Industrial Dispute Act such a workman cannot be automatically absorbed in HAL with consequential regularization. It is vehemently urged that as per the Contract Labour (Regulation and Abolition) Act 1970 and Contract Labour Regulation and Abolition Rules, 1971 his engagement in HAL is to be read as outcome of a camouflage sham contract and he is to be deemed as employee of HAL. Law in this regard has been enunciated by Hon'ble Supreme Court in the judgement Appeal

(civil) 6009-6010 of 2001 Steel Authority of India v/s National Water Front Workers' Union and in 1992 LAB.I.C 75 (SUPREME COURT) (From: Punjab and Haryana) K. JAGANNATHA SHETTY AND YOGESHWAR DAYAL, JJ Civil Appeals No.2 2355 of 1991 with (C.A Nos 2356-66/91, 2366A-69/91, S.L.P (C) Nos. 9755/91, 9830/91 and 10235-43 of 1981), D/-22-11-1991, Dena Nath and others, Appellant v National Fertilizers Ltd and others, Respondents. From cumulative reading from aforesaid case laws it is clear that contract labour has not been totally prohibited. There appears no legally strong ground for reading the contract between O.P No.1 and O.P No.2 as mere camouflage in view of the stand of the claimant workman that there was employer employee relationship between HAL and himself. By referring to some papers issued by some subordinate officials without proving duly issued appointment letter after proper selection process it cannot be logically concluded that there was employer employee relationship between HAL and claimant workman. Such a conclusion of employer employee relationship cannot be based on casual surmise.

On behalf of the workman genuineness of the documents annexure-4, annexure-5 and annexure-6 has been vehemently raised. It is submitted that in those documents anomalies with respect to names of their fathers have been manifestly noticed and as such those documents relied by O.P management are not to be accepted as genuine documents. It is submitted that though name of indrajeet is found in annexure-4 the same is not found in annexure-5, likewise the names of Surrendra Rawat and Arvind are not found in annexure-5. Pointing to aforesaid anomalies it is submitted that the said annexure may be treated as forged documents. It is vehemently submitted on behalf of claimant that Vijay Kumar Maurya was not contract worker. He was engaged as a regular unskilled worker in lawful manner. It is further submitted that on previous occasion contract labourers have been absorbed in regular posts as found in the order dated 28.07.2006 issued by HAL management. Countering the above submission on behalf of the workman it is submitted on behalf of O.P management that annexure-5 and annexure-6 are computer generated papers. It is further submitted on behalf of O.P that corresponding insurance numbers are issued by the Employees' State Insurance Corporation. It is further submitted that the office of PF Commissioner issues the PF Id in respect of employees which are found mentioned in annexure-6 and O.P management has no scope to manipulate the said number. The above submission on behalf of O.P management have not been shattered by the claimant side and as such the annexure-4, annexure-5 and annexure-6 can be safely accepted as genuine documents. Though it is submitted on behalf of claimant workman that he was engaged an unskilled labour at para 2 of his statement of claim he has described his status as skilled technician which runs counter to the oral submission during arguments made before this Tribunal. At this point it appears pertinent to examine veracity of claimant workman with regard to his claim that exhibit-1 is his letter of appointment. On referring to contents of Wexhibit-1 on which claimant heavily relies it is manifestly clear that the said document Wexhibit-1 is outcome of one settlement before Assistant Labour Commissioner Central in which claimant has been described as casual worker on daily wages and it was resolved that he would be re-engaged on casual basis. By no stretch of imagination exhibit-1 WExt-1 can be read as a letter of appointment. It is further submitted on behalf of O.P that in HAL its regularly appointed employees are allowed scaled wages and not daily wages. At this point it appears pertinent to state that claimant side had failed to prove any advertisement, written or oral test or any letter of appointment issued in favour of the claimant. In such scenario it can be safely concluded that there was no direct employer employee relationship between the O.P, HAL and the claimant. The circular issued by HAL may be silent with regard to mode of selection of its workers but for absence of mode of selection it cannot be construed that engagement of workers likely to get wages from the management can be done in arbitrary manner. Previously some workers might have been absorbed in regular post but the same cannot confer any legal right on the claimant for absorption in any regular post, contrary to the spirit of the case law reported in 2006(109)FLR 204 Civil appeal no. 1270 of 2006 BRANCH MANAGER, M.P. STATE AGRO INDUSTRIES DEVELOPMENT CORPORATION LTD. and another and S.C PANDEY and Civil appeal no. 1272 of 2011 State of Orissa and another appellants v/s Mamta Mohanty. Concept of negative equality cannot sustain before this Tribunal. There appears no logic to accept claim of the claimant for absorption in HAL as regular employee when initially there was no employer employee relationship between O.P HAL and the claimant. Even the rules 18 and rule 3 of certified standing orders on which the claimant relied will not bolster up his claim for regularization in view of scenario stated above.

Rule 73 of the Contract Labour (Regulation and Abolition) Central Rules, 1971 only prescribes that in presence of the representative of the principal employer the contract labour shall be paid wages. Rules 73 of the Contract Labour (Regulation and Abolition) Central Rules, 1971 cannot be read to create the right of contract labour to get permanent absorption on the job roll of principal employer.

It is true that no letter of termination was issued by HAL. Since claimant has failed to establish employer employee relationship with O.P HAL the question of issuance of letter of termination by HAL cannot be legally accepted as a strong ground for automatic absorption. Wexhibit-2 does not bear seal of any competent authority as admitted by claimant and as such cannot be read to confer the status of regularly appointed workman upon the claimant.

From the cumulative reading of the averments made in statement of claim and rejoinder filed by claimant it is seen that the claimant has somehow concealed his engagement by O.P No. 2 Kushang Security. From the evidence on record it cannot be concluded that the O.P No.2 was not the contractor under O.P HAL. It may be true that the papers show changes of Kushang Security to Kushang House Maintenance but the said anomaly will not confer any extra ordinary advantage on the claimant to claim for regularization. The answer to points no.1 and no.2 go against the claimant workman.

Point No.3

From reading of the statement of claim and the evidence deposed by the claimant workman it is crystal clear that he has all along claimed that he was employee of the HAL and as such he has claimed for regularization on the job role of HAL. In view of his failure to establish employer-employee relationship with HAL as concluded in the foregoing paragraphs there appears no legality of his claim for regularization in HAL employment. In such scenario claimant Vijay Kumar Maurya is not entitled to get any monetary compensation. Point No.3 is answered accordingly.

In view of the discussions stated above the whole reference is answered against the claims of claimant Vijay Kumar Maurya. In view of peculiar circumstances parties are left to bear their cost.

SOMA SHEKHAR JENA, Presiding Officer

नई दिल्ली, 22 दिसम्बर, 2022

का.आ. 1386.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे प्रबंध तंत्र के सबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट के (संदर्भ सं. 191/2013) को प्रकाशित करती है !

[सं. एल-41011/88/2013- आई आर (बी-1)]

ए. के. यादव, अवर सचिव

New Delhi, the 22nd December, 2022

S.O. 1386.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.191/2013) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen.

[No. L- 41011/88/2013– IR(B-1)]

A.K. YADAV, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present: Sunil Kumar Singh-I, Presiding Officer,
CGIT cum Labour Court,
Ahmedabad,
Dated : 29.11.2022

Reference: (CGITA) No- 191/2013

The Divisional Railway Manager (E),
Western Railway,
Divisional Office,
Ahmedabad (Gujarat)

V/s

... First Party

The General Secretary,
Western Railway Kamdar Sangh,
78/9-C, National Highway,
Gandhidham(Kutch)

... Second Party

Adv. for the First Party : Shri H.R. Raval

Adv. for the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011 /88 /2013-IR(B-I) dated 30.10.2013 referred the dispute for adjudication to the Industrial Tribunal -cum- Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of Western Railway Kamdar Sangh asking grant of extra ordinary leave and regularization of sick period along with payment for Shri B. O. Vasisth is legal and justified? To what relief Shri B. O. Vasisth is entitled?”

1. The reference dates back to 30.10.2013. The second party submitted the statement of claim Ex. 2 and copy of the documents vide list Ex.3 (M. 3/1 to 3/7) on 01.09.2014. First party submitted its written statement Ex.9 along with documents (R-1 to R-4) and the second party submitted counter reply to Written statement Ex.10 on 17.03.2017. Perusal of the record shows that the legal heirs of the workman submitted an application Ex.12 for substitution of legal heirs on 01.09.2017 which was allowed on 12.12.2018. Legal heirs were taken on record but the second party, despite giving number of opportunities to lead evidence, has failed to lead evidence. Thus it appears that the legal heirs of the second party or the second party workman, if alive, are not willing to prosecute the case.
2. Thus the reference is disposed of in the absence of the evidence of the second party with the observation as under: “the demand of Western Railway Kamdar Sangh asking grant of extra ordinary leave and regularization of sick period along with payment for Shri B. O. Vasisth is neither legal nor justified”.
3. Let two copies of the Award be sent to the Appropriate Government for the needful and for publication.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 22 दिसम्बर, 2022

का.आ. 1387.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बड़ोदा यु पी ग्रामीण बैंक प्रबंध तंत्र के सबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट के (संदर्भ सं. 147/2019) को प्रकाशित करती है !

[सं. एल-12011/17/2019- आई आर (बी-1)]

ए. के. यादव, अवर सचिव

New Delhi, the 22nd December, 2022

S.O. 1387.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 147/2019) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Kanpur as shown in the Annexure, in the industrial dispute between the management of Baroda U.P. Gramin Bank and their workmen.

[No. L- 12011/17/2019- IR(B-1)]

A.K YADAV, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT KANPUR

Present: SOMA SHEKHAR JENA, HJS (Retd.)

ID 147 of 2019

Ref. No. L-12011/17/2019-IR(B-I) dated 01.07.2019

BETWEEN

The General Secretary,
Bhartiya Poorva Sainik Bank Karmachari Sangh,
555-Indira Nagar,
UNNAO(UP)-209001

AND

1. The Regional Manager,
Baroda U.P. Gramin Bank, Regional Office,
117-N/26, Kakadeo,
Kanpur(U.P)-208025
2. The Chairman,
Baroda U.P. Gramin Bank, Head Office,
A-1, Civil Lines,
RaeBareli(Distt.)-229001

AWARD

By order NO. L-12011/17/2019-IR(B-1) dated 01.07.2019, The Central Government in the Ministry of Labour, New Delhi in exercise of power conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of Industrial Disputes Act 1947 (14 of 1947) referred this Industrial Dispute for adjudication.

The reference under adjudication is :-

“Whether action of the management of Baroda U.P. Gramin Bank in not considering the request of Shri Chandra Shekhar Awasthi, office Assistant regarding his transfer to any of the four branches of his choice at Kanpur viz. Mall Road, Tiwaripur, Rama Devi or Yashoda Nagar, although considering the request of his juniors in violation of Transfer Policy, is just, fair and legal? if not, to what relief the workman concerned is entitled ?”

The submissions of the claimant may be summarized as follows:-

Claimant workman is an ex-service man working for the O.P management. At present he is General Secretary of the Bharatiya Poorva Sainik Karamchhari Sangh which raises the Industrial Dispute to ensure various interests of the employees as provided by the Government of India.

The claimant workman as General Secretary of the Union had to come regularly to Kanpur in respect of various issues which causes loss of time and affects the service provided by claimant workman to the Bank customers and claimant's works as General Secretary of the union. To ensure the proper, amicable and timely enforcement of various policies of the government, Officials of the union must be posted only in cities having administrative offices of the Bank. So that issues raised could be resolved expeditely.

Claimant workman raised the issue before the management of the Bank to avoid the aforementioned problem by posting him in Kanpur. O.P assured him that he would be posted in the next transfer cycle. But O.P Bank with malicious intention had shown reluctance towards claimant's request. Even, O.P Bank violated the transfer policy of the Bank by transferring few workmen to cities who have not even completed one year in their branch.

Keeping in mind the possibilities of Industrial unrest and to ensure the proper protection of the employees, the claimant workman prayed before this Tribunal for justice.

Stating as above claimant has prayed for posting in any of the branches such as Mall Road, Tiwaripur, Rama Devi or Yashoda Nagar.

On behalf of the O.P it is submitted that claimant Shri Chandra Shekhar Awasthi has already been posted at Mall Road Branch of the Employer bank after his promotion to the level of head cashier.

The averments of the claimant with regard to discriminatory game of the management have not been proved with evidence. Hence it cannot be concluded that the O.P management has done the violation of transfer policy. However, since the claimant has already been posted in the Mall Road Branch of the Employer Bank there survived no actual dispute.

The reference stands disposed of. Parties are left to bear their respective costs.

SOMA SHEKHAR JENA, Presiding Officer

नई दिल्ली, 22 दिसम्बर, 2022

का.आ. 1388.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे प्रबंध तंत्र के सबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट के (संदर्भ सं. 1100/2004) को प्रकाशित करती है 1

[सं. एल-41011/11/98- आई आर (बी-1)]

ए. के. यादव, अवर सचिव

New Delhi, the 22nd December, 2022

S.O. 1388.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 1100/2004) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen.

[No. L- 41011/11/98– IR(B-1)]

A.K YADAV, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM LABOUR-COURT, AHMEDABAD**

Present: SUNIL KUMAR SINGH-I, Presiding Officer,
CGIT cum Labour Court,
Ahmedabad,
Dated : 29.11.2022

Reference: (CGITA) No- 1100/2004

The Divisional Railway Manager,
Western Railway, Bhavnagar Division,
Bhavnagar (Gujarat)-364001

... First Party

V

The General Secretary,
Western Railway Kamdar Sangh,
T.B.Z.-17, Gurnagar,
Gandhidham-370 201

... Second Party

Adv. for the First Party : Shri D. C. Khuva
Adv. for the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/11/98/IR(B-I) dated 23.02.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the Western Railway Kamdar Sangh, Gandhidham against the Divisional Railway Manager, Western Railway, Bhavnagar Para, for regularization of the 11 Loaders, in the list enclosed, engaged in the work of loading and unloading of goods and parcels at the stations shown against each, which is of a routine and regular nature, just, valid and legal? If so to what benefit the workmen are entitled for and what directions are necessary in the matter?”

1. The reference dates back to 23.02.1999. In response to the notice issued by the tribunal, the second party submitted the statement of claim dated-01.03.2004 vide Ex.6. Perusal of the record shows that the first party did not prefer to submit its written statement despite service of notice and giving several opportunities.

Therefore, the case was ordered to proceed ex-parte on 12.12.2018. Since then the second party has not been leading evidence despite giving several opportunities.

2. Thus the reference is disposed of in the absence of the evidence of the second party with the observation as under: “the demand of the Western Railway Kamdar Sangh, Gandhidham against the Divisional Railway Manager, Western Railway, Bhavnagar Para, for regularization of the 11 Loaders, in the list enclosed, engaged in the work of loading and unloading of goods and parcels at the stations shown against each, which is of a routine and regular nature is not just, valid and legal”

3. Let two copies of the Award be sent to the Appropriate Government for the needful and for publication.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 22 दिसम्बर, 2022

का.आ. 1389.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे प्रबंध तंत्र के सबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट के (संदर्भ सं. 166/2013) को प्रकाशित करती है !

[सं. एल-41011/70/2013-आई आर (बी-1)]

ए. के. यादव, अवर सचिव

New Delhi, the 22nd December, 2022

S.O. 1389.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 166/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen.

[No. L- 41011/70/2013– IR(B-1)]

A.K YADAV, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present: Sunil Kumar Singh-I, Presiding Officer,
CGIT cum Labour Court,
Ahmedabad,
Dated : 29.11.2022

Reference: (CGITA) No- 166/2013

The Divisional Railway Manager (E),
Western Railway,
Divisional Office,
Ahmedabad (Gujarat)

... First Party

V

The General Secretary,
Western Railway Kamdar Sangh,
78/9-C, National Highway,
Gandhidham(Kutch)

....Second Party

Adv. for the First Party : Shri Rajesh Singh
Adv. for the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/70/2013-IR(B-I) dated 23.09.2013 referred the dispute for adjudication to the Industrial Tribunal - cum- Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the Western Railway, Divisional Railway Manager, Divisional Office, Ahmedabad by not granting financial assistant from relief fund to Shri B. O. Vashistha, Pointsman is justified? To what relief Shri B. O. Vashistha is entitled?”

1. The reference dates back to 23.09.2013. In response to the notice Ex.2 issued by the tribunal, the second party submitted the statement of claim Ex. 5 and copy of the documents vide list Ex.6 (M. 6/A to 6/G) on 23.02.2015. The first party submitted its written statement Ex.8 on 24.04.2019. Perusal of the record shows that the legal heirs of the workman submitted an application Ex.9 for substitution of legal heirs on 01.09.2017 which was allowed. Legal heirs were taken on record but the second party despite giving various opportunities to lead evidence, has failed to lead evidence.

2. Therefore, it appears that the second party workman is not willing to prosecute the case.

3. Thus the reference is disposed of in the absence of the evidence of the second party workman with the observation as under: “the action of the Western Railway, Divisional Railway Manager, Divisional Office, Ahmedabad by not granting financial assistant from relief fund to Shri B. O. Vasistha, Pointsman is justified”.

4. Let two copies of the Award be sent to the Appropriate Government for the needful and for publication.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2022

का.आ. 1390.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एक्सिस बैंक प्रबंध तंत्र के सबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण दिल्ली. 2 के पंचाट के (संदर्भ सं. 70/2020) को प्रकाशित करती है !

[सं. एल-12025/01/2022- आई आर (बी-1)-13]

ए. के. यादव, अवर सचिव

New Delhi, the 23rd December, 2022

S.O. 1390.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 70/2020) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Delhi-II as shown in the Annexure, in the industrial dispute between the management of Axis Bank Ltd. and their workmen.

[No. L- 12025/01/2022– IR(B-1) -13]

A.K YADAV, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT-II, NEW DELHI

Present: Smt. PRANITA MOHANTY

ID.NO.70/2020

Shri Rameshwar Singh, S/o Shri Ram Singh,
Through, Rashtriya Rajdhani Shramik Sangh,
House No.-258 , Pole No. 58, Village & Post Office-Kair,
Najafgarh, New Delhi-110043.

.... Workman

Versus

1. The Manager,
Axis Bank Ltd.
D-15 Basement 24 to 28, South Extension Part-II,
New Delhi-110049.
2. The Manager,
Nisha Industrial Services Pvt. Ltd.
House No. 144, Sector-31, Gurgaon -122003
.... Managements.

AWARD

In the present case, a reference was received from the appropriate Government vide file no. ND. 96(38)2019-ID-FOC-DY-CLC dated 17.02.2020 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

“Whether the action of the management of M/s Nisha Industrial Services Pvt. Ltd. in terminating the service of the workman Shri Rameshwar Singh, w.e.f 26.07.2017 is just, fair and legal? If not what relief the workman concerned is entitled to and from which date ?”

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, claimant union opted not to file the claim statement.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put his appearance nor has he led any evidence so as to prove his cause against the management, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim’ award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2022

का.आ. 1391.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार जिला प्रबंधक, भारत संचार निगम लिमिटेड, गुना (म.प्र.) के प्रबंधन के संबद्ध नियोजकों और श्री घनश्याम, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट के (संदर्भ संख्या CGIT/LC/R/9/2012 Merged with R/15/2012) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 12.12.2022 को प्राप्त हुआ था।

[सं. एल-40012/89/2011-आईआर-(डीयू)]

डी.के. हिमांशु, अवर सचिव

New Delhi, the 23rd December, 2022

S.O. 1391.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/9/2012 Merged with R/15/2012) of the Central Government Industrial Tribunal cum Labour-Jabalpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Telecom District Manager, Bharat Sanchar Nigam Limited Guna (M.P.) and Shri Ghanshyam, Worker which was received along with soft copy of the award by the Central Government on 12.12.2022.

[No. L- 40012/89/2011– IR (DU)]

D.K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR

NO. CGIT/LC/R/9/2012

Merged with R/15/2012

Present: P.K. Srivastava, H.J.S..(Retd)

Shri Ghanshyam
S/o Shri Mangilal Mali
Opp.Railway Sation
Chanchowda, Guna(M.P.)

....Workman

Versus

The Telecom District Manager,
Bharat Sanchar Nigam Limited
Guna(M.P.)

....Management

AWARD

(Passed on 7-11-2022.)

As per letter dated 29/12/2011 by the Government of India, Ministry of Labour, New Delhi, the reference is received. Both the references is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-40012/89/2011-IR(DU). The dispute under reference relates to:

“Whether the action of the management of Telecom District Manager, Bharat Sanchar Nigam Limited, guna(MP) in terminating the services of Shri Ghanshyam S/o Shri Mangilal Mali w.e.f. 9/9/2009, is legal and justified? What relief the workman is entitled to?”

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their respective statement of claim/defense.

2. The case of the workman as stated in his statement of claim is that the workman Ghanshyam was employed as Group'D' worker by the Management w.e.f 1-4-1993 and worked continuously with the Management without any break till 9-9-2009. He was appointed against regular vacancy and was paid wages on monthly basis. He had completed 240 days continuously in every year from the date of his initial appointment till date of his termination. He was terminated without any notice or compensation on 9-9-2009. Hence his termination is in violation of Section 25F, Section 25G, Section 25H and Section 25N of the Industrial disputes Act,1947. The work is still available with the Management. Accordingly, it has been prayed that setting aside his termination, he be reinstated with back wages and benefits.

3. The case of the Management is mainly that the workman Ghanshyam was never employed by them as claimed by him on daily basis or casual basis, hence there is no question of termination of his services. Accordingly Management has claimed what the reference be answered against the workman.

4. The workman filed his affidavit as his examination in chief. He has been cross-examined by the Management. The workman has filed and proved copy of his petition raising dispute before Assistant Labour Commissioner(Central), attendance sheet for the month of September-1993. He has examined himself as a witness and has been cross-examined by Management. The Management has examined its witness Shri Vinay Kirti Jain, Assistant General Manager. He has been cross-examined from the side of the workman.

5. The management has filed affidavit of witness Shri Vinay Kirti Jain, Assistant General manager.

6. I have heard arguments of Shri A.K.Shashi, learned counsel for the workman and Shri P.S.Shankaran, learned counsel for the Management and have gone through the record.

7. **The reference itself is the issue for determination, in the case in hand.**

8. The workman has corroborated his case in his affidavit filed as his Examination-in-chief. In his cross-examination, he admits that he was not issued a formal appointment letter. He further states that he worked in Chanchoda, Guna and Raghogarh etc. He was engaged in maintenance and wire pulling. There is nothing in his statement to discredit him.

9. On the other hand the Management witness has stated that the workman was never engaged in any capacity. He never worked for 240 days continuously in any year. In his cross-examination this witness has stated that the facts stated in his affidavit as his Examination-in-Chief is on the basis of information received orally from the Officers posted at these places. He further stated that no document relating to the workman is available and that he does not know that a daily wager was appointed during the period 1993 to 1999 and that records of that period i.e. the muster roll etc. has been weeded out.

10. As it is established, no documentary record is available with the Management because the records have been weeded out as stated by Management witness. Hence, this case is to be decided on the basis of oral evidences. The management witness was not posted at the places and during the time the workman claims to have been working with the Management, hence, the statement of workman on oath appears more reliable.

11. Accordingly, it is held that the workman has successfully proved his continuous engagement for 240 days in every year since 1-4-1993 to 9-9-2009. Since there is nothing to indicate that he was issued any notice or paid any compensation, his termination is held in violation of Section 25 F & Section 25G of the Industrial Disputes Act, 1947.

12. In the light of the finding recorded above, another issue arises as to what relief the workman is entitled to. There is nothing on record to show that his appointment was against any vacant and sanctioned post, following recruitment procedure, hence reinstatement of his services will not be a just relief in the case in hand but keeping in view his long tenure from 1993 to 2009 a lump sum compensation of Rs.2,00,000/- (Rupees two lakh only) in lieu of full and final settlement of all his claims will meet the ends of Justice to which the workman is held entitled.

13. On the basis of the above discussion, following award is passed:-

“The action of the management of Telecom District Manager, Bharat Sanchar Nigam Limited, Guna(MP) in terminating the services of Shri Ghanshyam S/o Shri Mangilal Mali w.e.f. 9/9/2009, is held not legal and justified.

B.The workman is held entitled to a lump sum compensation of Rs.2,00,000/- (Rupees two lakh only) in lieu of full and final settlement of all his claims within 30 days from the date of publication of award in official gazette failing which interest @ 6% p.a. from the date of notification till receipt of the Award.

14. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 7-11-2022

नई दिल्ली, 23 दिसम्बर, 2022

का.आ. 1392.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार जिला प्रबंधक, भारत संचार निगम लिमिटेड, गुना (म.प्र.) के प्रबंधन के संबद्ध नियोजकों और श्री गजानंद माली, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. CGIT/LC/R/11/2012 Merged with R/17/2012) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 12.12.2022 को प्राप्त हुआ था।

[सं. एल-40012/86/2011- आई आर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 23rd December, 2022

S.O. 1392.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/11/2012 Merged with R/17/2012) of the Central Government Industrial Tribunal cum Labour-Jabalpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Telecom District Manager, Bharat Sanchar Nigam Limited Guna (M.P.) and Shri Gajanand Mali, Worker, which was received along with soft copy of the award by the Central Government on 12.12.2022.

[No. L- 40012/86/2011- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR

NO. CGIT/LC/R/11/2012

Merged with R/17/2012

Present: P.K.Srivastava, H.J.S..(Retd)

Shri Gajanand Mali
 S/o Shri Jamna Lal Mali
 Behin Jilla Sahkari Bank,
 Tabal Ki Badi, Chachouda(Guna)

....Workman

Versus

The Telecom District Manager,
 Bharat Sanchar Nigam Limited
 Guna(M.P.)

... Management

AWARD

(Passed on 7-11-2022.)

As per letter dated 29/12/2011 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-40012/86/2011-IR(DU). The dispute under reference relates to:

“Whether the action of the management of Telecom District Manager, Bharat Sanchar Nigam Limited, Guna(MP) in terminating the services of Shri Gajanand S/o Shri Jamunalal Mali w.e.f. 10/5/2009 is legal and justified? What relief the workman is entitled to? .”

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their respective statement of claim/defense.

2. The case of the workman as stated in his statement of claim is that the workman Gajanand was employed as Group'D` worker by the Management w.e.f 1-2-1993 and worked continuously with the Management without any break till 10-5-2009. He was appointed against regular vacancy and was paid wages on monthly basis. He had completed 240 days continuously in every year from the date of his initial appointment till date of his termination. He was terminated without any notice or compensation 10-5-2009. Hence his termination is in violation of Section 25F, Section 25G, Section 25H and Section 25N of the Industrial disputes Act,1947. The work is still available with the Management. Accordingly, it has been prayed that setting aside his termination, he be reinstated with back wages and benefits.

3. The case of the Management is mainly that the workman Gajanand was never employed by them as claimed by him on daily basis or casual basis, hence there is no question of termination of his services. Accordingly Management has claimed what the reference be answered against the workman.

4. The workman filed his affidavit as his examination in chief. He has been cross-examined by the Management. The workman has filed and proved copy GAIL India Gate passes which are Exhibit W-1 to Exhibit W-5 for different period. He has examined himself as a witness and has been cross-examined by Management. The Management has examined its witness Shri Vinay Kirti Jain, Assistant General Manager. He has been cross-examined from the side of the workman.

5. The management has filed affidavit of witness Shri Vinay Kirti Jain, Assistant General manager.

6. I have heard arguments of Shri A.K.Shashi, learned counsel for the workman and Shri P.S.Shankaran, learned counsel for the Management and have gone through the record.

7. **The reference itself is the issue for determination, in the case in hand.**

8. The workman has corroborated his case in his affidavit filed as his Examination-in-chief. In his cross-examination, he admits that he was not issued a formal appointment letter. He further states that he worked in Chanchoda, Guna etc. There is nothing in his statement to discredit him.

9. On the other hand the Management witness has stated that the workman was never engaged in any capacity. He never worked for 240 days continuously in any year. In his cross-examination this witness has stated that the facts stated in his affidavit as his Examination-in-Chief is on the basis of information received orally from the Officers posted at these places. He further stated that no document relating to the workman is

available and that he does not know that a daily wager was appointed during the period 1993 to 2009 and that records of that period i.e. the muster roll etc. has been weeded out.

10. As it is established, no documentary record is available with the Management because the records have been weeded out as stated by Management witness. Hence, this case is to be decided on the basis of oral evidences. The management witness was not posted at the places and during the time the workman claims to have been working with the Management, hence, the statement of workman on oath appears more reliable.

11. Accordingly, it is held that the workman has successfully proved his continuous engagement for 240 days in every year since 1-2-1993 to 10-5-2009. Since there is nothing to indicate that he was issued any notice or paid any compensation, his termination is held in violation of Section 25 F & Section 25G of the Industrial Disputes Act, 1947.

12. In the light of the finding recorded above, another issue arises as to what relief the workman is entitled to. There is nothing on record to show that his appointment was against any vacant and sanctioned post, following recruitment procedure, hence reinstatement of his services will not be a just relief in the case in hand but keeping in view his long tenure from 1993 to 2009 a lump sum compensation of Rs.2,00,000/- (Rupees two lakh only) in lieu of full and final settlement of all his claims will meet the ends of Justice to which the workman is held entitled.

13. On the basis of the above discussion, following award is passed:-

“The action of the management of Telecom District Manager, Bharat Sanchar Nigam Limited, Guna(MP) in terminating the services of Shri Gajanand S/o Shri Jamunalal Mali w.e.f. 10/5/2009, is held not legal and justified.

B.The workman is held entitled to a lump sum compensation of Rs.2,00,000/- (Rupees two lakh only) in lieu of full and final settlement of all his claims within 30 days from the date of publication of award in official gazette failing which interest @ 6% p.a. from the date of notification till receipt of the Award.

14. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 7-11-2022

नई दिल्ली, 23 दिसम्बर, 2022

का.आ. 1393.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार जिला प्रबंधक, भारत संचार निगम लिमिटेड, गुना (म.प्र.) के प्रबंधन के संबद्ध नियोजकों और श्री ओम प्रकाश द्वारा श्रीमती अमर बाई, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. CGIT/LC/R/13/12, merged with R/19/2012) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 12.12.2022 को प्राप्त हुआ था।

[सं. एल-40012/85/2011- आईआर-(डीयू)]

डी.के. हिमांशु, अवर सचिव

New Delhi, the 23rd December, 2022

S.O. 1393.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/13/12, merged with R/19/2012) of the Central Government Industrial Tribunal cum Labour-Jabalpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Telecom District Manager, Bharat Sanchar Nigam Limited Guna (M.P.) and Shri Om Prakash Represented by Smt.Amar Bai, which was received along with soft copy of the award by the Central Government on 12.12.2022.

[No. L- 40012/85/2011– IR(DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR
NO. CGIT/LC/R/13/12
merged with R/19/2012

Present: P.K.Srivastava H.J.S..(Retd)
 Shri Om Prakash (Dead)
 Represented by Widow wife
 Smt.Amar Bai
 Village Goriyakheda
 PO:Kumbhraj,
 Thesil: Kumbhraj
 Guna(M.P.)

....Workman

Versus

The Telecom District Manager,
 Bharat Sanchar Nigam Limited
 Guna(M.P.)

... Management

AWARD

(Passed on this 7th day of November-2022

As per letter dated 29/12/2011 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No.L-40012/85/2011-IR(DU). The dispute under reference relates to:

“Whether the action of the management of Telecom District Amanager, Bharat Sanchar Nigam Limited, Guna(M.P.) in terminating the services of Shri Om Prakash S/o Shri Babulal Ojha w.e.f. 10/10/2009 is legal and justified? What relief the workman is entitled to .”

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their respective statement of claim/defense.

2. The case of the workman as stated in his statement of claim is that the workman Omprakash was employed as Group`D` worker by the Management w.e.f 1-2-1994 and worked continuously with the Management without any break till 10-10-2009. He was appointed against regular vacancy and was paid wages on monthly basis. He had completed 240 days continuously in every year from the date of his initial appointment till date of his termination without any notice or compensation on 10-10-2009. Hence his termination is in violation of Section 25F, Section 25G, Section 25H and Section 25N of the Industrial disputes Act,1947. The work is still available with the Management. Accordingly, it has been prayed that setting aside his termination, he be reinstated with back wages and benefits.

3. The case of the Management is mainly that the workman Omprakash was never employed by them as claimed by him on daily basis of casual basis, hence there is no question of termination of his services. Accordingly Management has claimed what the reference be answered against the workman.

4. The workman filed his affidavit as his examination in chief. He has been cross-examined by the Management.

5. The workman also filed affidavit of his co-workman Ghanshyam who has been cross-examined by Management.

6. The management has filed affidavit of witness Shri Vinay Kirti Jain, Assistant General manager.

7. I have heard arguments of Shri A.K.Shashi, learned counsel for the workman and Shri R.S.Khare, learned counsel for the Management and have gone through the record.

8. **The reference itself is the issue for determination, in the case in hand.**

9. The workman has reiterated his case as mentioned above in his affidavit, filed as his examination in chief. He has been cross-examined by Management. He has stated in his cross-examination that he did not

receive any formal appointment letter. He denied that he never worked continuously for 240 days in any year. The workman witness Ghanshyam as corroborated the case of the workman. He has stated that he was also employed and worked as Group 'D' worker with the Management since 1-4-1993. The workman Omprakash was his co-workman. They both worked together. This witness has been cross-examined by Management. There is nothing in his cross-examination to discredit this witness. He has mentioned details as to where he had worked with the workman Omprakash. ON the other hand, the Management witness has denied the claim of the workman in his affidavit. He admits that he was never posted during the time and the place where the workman was said to be posted.

10. It also comes out from perusal that Management was issued directions to file some documents regarding attendance and payment of the work but did not file any document, hence adverse inference be drawn against the Management on this point.

11. On the basis of the above discussion of evidences, the case of the workman that he worked continuously for 240 days in every year, since the date of his first appointment as a casual labour on 1-2-1994 till date of termination of his services on 10-10-2009 is held proved, since there is nothing on record to show that any notice or compensation was given to the workman, his dis-engagement is held in violation of Section 25F of the Industrial Disputes Act, 1947.

12. In the light of the finding recorded above, another issue arises as to what relief the workman is entitled to. It comes out from the perusal of record that the workman died during the pendency of the reference and his legal representative has been brought on record. There is nothing on record to show that his appointment was against any vacant and sanctioned post, following recruitment procedure, hence reinstatement of his services will not be a just relief in the case in hand but keeping in view his long tenure from 1994 to 2009 a lump sum compensation of Rs.2,00,000/- (Rupees two lakh only) in lieu of full and final settlement of all his claims will meet the ends of Justice to which the workman is held entitled.

13. On the basis of the above discussion, following award is passed:-

A. The action of the management of Telecom District Manager, Bharat Sanchar Nigam Limited, Guna(M.P.) in terminating the services of Shri Om Prakash S/o Shri Babulal Ojha w.e.f. 10/10/2009 is held not legal and justified.

B. The workman is held entitled to a lump sum compensation of Rs.2,00,000/- (Rupees two lakh only) in lieu of full and final settlement of all his claims within 30 days from the date of publication of award in official gazette failing which interest @ 6% p.a. from the date of notification till receipt of the Award.

14. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P.K. SRIVASTAVA, Presiding Officer

DATE: 7-11-2022

नई दिल्ली, 23 दिसम्बर, 2022

का.आ. 1394.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार क्षेत्रीय प्रबंधक, भारतीय राष्ट्रीय सहकारी उपभोक्ता संघ, जोन-II भोपाल (म.प्र.) के प्रबंधन के संबद्ध नियोजकों और श्री कांत प्रकाश सिंह, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. CGIT/LC/R/113/2018) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 12.12.2022 को प्राप्त हुआ था।

[सं. एल-42012/139/2018- आईआर-(डीयू)]

डी.के. हिमांशु, अवर सचिव

New Delhi, the 23rd December, 2022

S.O. 1394.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/113/2018) of the Central Government Industrial Tribunal cum Labour-Jabalpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Regional manager, National Cooperative Consumers Federation of India, Zone-II, Bhopal (M.P.)

and Shri Kant Prakash Singh, Worker, which was received along with soft copy of the award by the Central Government on 12/12/2022.

[No. L- 42012/139/2018- IR (DU)]

D.K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/113/2018

Present: P.K.SRIVASTAVA H.J.S..(Retd)

Shri Kant Prakash Singh
R/O G-47/1, New Shabri nagar,
Sukhlia, Indore (M.P.)

... Workman

Versus

The Regional manager,
National Cooperative Consumers Federation of India
12-A, Dayal Complex, M.P.Nagar
Zone-II Near FCI Office, Bhopal (M.P.)

....Management

AWARD

(Passed on 20-9-2022.)

As per letter dated 22/11/2018 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-42012/139/2018(IR (DU). The dispute under reference relates to:

“Whether the action of the management of National Cooperative Consumer’s Federatin of India Ltd. In down grading pay of Shri Kant Prakash Singh from Rs.2400/- to Rs.1900/- is justified? If not to what relief the workman is entitled for ? .”

1. After registering the case on the basis of reference, notices were sent to the parties.
2. The workman appeared and has filed his written statement of claim.
3. The Management was also served with the notice but no one appeared from the side of the Management and nor did they file their statement of defense.
4. Inspite of many opportunities to both the parties, neither of them appeared and produced the oral or file the written arguments. Hence on 30-9-2021 the cases proceeded ex-parte against the Management.
5. Though the statement of claim was filed by the workman but he was never present at the time of arguments nor was he represented to defend his case. The initial burden to prove his claim lies on the workman. He has not filed any documents or evidence in his support. The workman has miserably failed to prove his case. Hence this tribunal is constrained to decide the reference against the workmen.
6. Accordingly an ex-parte award in favour of the Management is passed. The workman is held entitled to no relief.
7. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P.K. SRIVASTAVA, Presiding Officer

DATE: 20-9-2022

नई दिल्ली, 23 दिसम्बर, 2022

का.आ. 1395.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कुलसचिव, डॉ. हरि सिंह गौर विश्वविद्यालय, सागर, (म.प्र.) के प्रबंधन के संबंध में नियोजकों और अध्यक्ष, डॉ. हरि सिंह गौर (मध्य.) विश्वविद्यालय कर्मचारी संघ, सागर, (म.प्र.), के बीच अनुबंध में निर्दिष्ट केन्द्रीय

सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. CGIT/LC/R/73/2018) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 26.11.2022 को प्राप्त हुआ था।

[सं. एल-42011/89/2018- आईआर-(डीयू)]

डी.के. हिमांशु, अवर सचिव

New Delhi, the 23rd December, 2022

S.O. 1395.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/73/2018) of the Central Government Industrial Tribunal cum Labour-Jabalpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Registrar, Dr. Hari Singh Gaur University, Sagar, (M.P.) and The President, Dr. Hari Singh Gour(Cent.) University Employ Union, Sagar, (M.P.), which was received along with soft copy of the award by the Central Government on 26.11.2022.

[No. L- 42011/89/2018- IR (DU)]

D.K. HIMANSHU, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/73/2018

Present: P.K. SRIVASTAVA, H.J.S.(Retd.)

Shri Sandeep Balmiki
President
Dr. Hari Singh Gour(Cent.)
University Employ Union
Resident of Purvyau Touri.,
Sagar, M.P. – 470001

....Workman

Versus

The Registrar
Dr. Hari Singh Gaur University
Sagar, M.P. – 470003.

(Passed on this 20th day of October-2022)

As per letter dated 13/11/2018 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-42011/89/2018-IR(DU). The dispute under reference relates to:

“क्या प्रबंधन रजिस्ट्रार डॉ हरीसिंह गौर विश्वविद्यालय (केन्द्रीय विद्यालय) सागर म प्र) के द्वारा श्री सोनू बोहत दैनिक वेतन भोगी डाटा प्रविष्टि आपरेट/ सहायक येडन को दिनांक 16.09.2013 से नियोजन में रखने पश्चात स्थाई कर्मचारी के तौर पर डाटा प्रविष्टि आपरेटर/ सहायक ग्रेड-3 के पद पर वर्गीकरण न करते हुए उनके वास्तविक पद का वेतनमान प्रदान न करना एवं दिनांक 25.10.2017 से उनकी सेवाएं समाप्त किये जाने की कार्यवाही न्यायोचित है यदि नहीं, तो संबंधित कर्मचारी किस अनुतोष का हकदार है ?”

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their statement of claim/defense.
2. The case of the workman Union, as put up in their statement of claim, is that is an Association of persons working for the protection of the interest of employees working for the University. It has authority to

raise a dispute and contest the case on behalf of the workman who has is a member of the Union. The workman was initially appointed as Computer Operator/Lower Division Clerk and continued as daily wagger/muster roll employee, grade-III post since his initial appointment in the year 2013 . He approached the Hon'ble High Court of M.P., when there was reduction of pay by way of a writ petition. Hon'ble High court directed the University to give benefit of minimum pay scale notified to the post . The University was declared a Central University vide Central University Act 2009. Before that, it was a State University as per provisions of M.P. Vishwavidyalaya Adhiniyam 1973. The workman was initially appointed as a Computer/Lower Division Clerk on 16-9-2013 and started discharging his duties Computer/Lower Division Clerk. The said appointment was with the prior approval after creation of the post. The said workman has been continuously working since the date of his first appointment on 16-9-2013 till 25-10-2017 when his services were terminated without preparation of any seniority list, without following the principles of last come first go and also without any notice or compensation. According to the applicant workman, the said post are still available with the second party University and is of permanent nature. Further, since the applicant workman possessed the necessary qualification for the post of Computer operator/lower division clerk, he is therefore, entitled for classification on the aforesaid post with grade pay of 1900/- per month with effect from 16-9-2013. He is also further entitled to be reinstated with full back wages and benefits setting aside his retrenchment as inspite of his best efforts he could not get suitable job for him till now.

3. According to the workman Union, the duties which were discharged by the applicant workman is of Class-III post in the University. When the University was a State University a resolution was passed by the Executive Council of the University in its meeting dated 1-5-2008 by exercising powers under Section 24 of the M.P. Vishwavidyalaya Adhiniyam, 1973. It was resolved that all the daily wagers/muster roll employees, employed will be entitled to minimum of pay and scale and allowances which is applicable to the Grades in which they were discharging their duties. The Executive council further adopted the recommendation of other pay recommendations of Teachers/Officers and employees vide its resolution dated 22-8-2009. The University was declared a Central University with the passage of notification of Central Universities Act, 2009. Section 4D of this Act provided that every person earlier employed by the University shall hold his office on same remuneration and terms and conditions and rules and privileges unless it is altered in consequence with the statutory rights. The Applicant Workman and the other similarly situated employees who were required to discharge duties equivalent to Class-III employees were illegally downgraded to Class-IV employees. It is further the case of the workman Union that the university has not recruited regular employees in Class-III and Class-IV for the last several years and this work is being discharged by muster roll employees even today also. Hence, the action of the University denying standard classification pay scale of Grade-III to employees and making payment to all at the same rate of pay irrespective of work discharged by them is illegal and arbitrary. It is in this back drop that Hon'ble High Court of M.P. directed the University to pay the applicant workman and similarly situated petitioners minimum pay in the scale of pay notified for the post against which they are discharging their duties vide its order dated 26-9-2011 passed in W.P.No.4520/2010. This order has been affirmed by Hon'ble the High Court vide its order dated 26-7-2013 passed in S.L.P.No.18342-43/2013. Further, it has been stated that in order to circumvent the order of Hon'ble High Court and Hon. Supreme Court, the University has not carried proper classification and fitment . Since the applicant workman has not been given proper classification and fitment and deprived them of all the benefits which is violation of standing order applicable over the University. Accordingly, it has been prayed that holding the termination of the workman against law, he be held entitled to be reinstated with all back wages and benefits and also be held entitled for permanent classification in Grade-III for the post of Computer Operator, Grade-III with Grade Pay Scale of Rs.1900/- per month w.e.f. completion of six months from the date of completion of six months of his application or since 16-9-2013 with arrears and interest.

4. IN the written statement of defence by the University, it has been pleaded that the allegation of the workman that he is discharging his duties on vacant and sanctioned post is incorrect. To obtain the status of a permanent employee a person must be employed in terms of statutory rules. The applicant workman was simply a daily wagger/temporary employee on outsourcing basis through a contractor, who cannot hold the post unless he is appointment in terms of the Act and rules framed there under. An appointment may in violation of mandatory provisions of a statute is nullity. A persons appointed in such a manner cannot claim any benefit and rights regarding regularization and permanency in service in the light of Principle laid down in the case of **State of Karnataka & Another Vs. Uma Devi and Others** (2006) 4 SCC 1. As regards the order of Hon'ble High Court and Hon'ble the Apex Court directing minimum pay in the scale , it is the case of the Management that the this order has been complied with by the management of University. The Competent Authority in the University has constituted a Committee to examine the case of daily wagers/muster roll employees discharging the duties of Class-III and on the basis of the records available the daily wage and muster roll employees have been given pay entitled to Class-III employees and Dearness Allowance. Accordingly the management has requested that the reference be answered against the workman Union. It is further the case of the management that the applicant workman was disengaged following the rules. The Management has thus prayed that the reference be answered against the applicant workman.

5. The workman Union has filed a rejoinder wherein it has denied the case of management and has further reiterated its case.
6. The workman has filed vide list 26 documents and has proved as Exhibit W-1 to W-25, to be referred to as and when required. The workman Union has further filed and proved photocopy of marksheets and educational qualification documents of the workman Sonu bohat which are collectively marked Exhibit W-26 to be referred to as and when required.
7. The workman Union has filed affidavit as his examination in chief . Opportunity of cross-examination of this witness was given to management . They did not avail this opportunity, hence opportunity of cross-examination of this witness is closed.
8. The management has not examined any witness, rather it has filed two photocopy office orders dated 5-5-2014 and 2-11-2016 both admitted by workman Union, marked as Exhibit M1 to M2 respectively.
9. I have heard arguments of Mr. Uttam Maheshwari, learned counsel for the workman Union. The management did not appear at the time of arguments. The workman Union has filed written arguments also which is part of the record. No written arguments has been filed by the Management. I have gone through the record as well.
10. On perusal of record in the light of arguments, the following points/issues come up for determination :-

- 1) **Whether the University Dr. Hari Singh Gaur University is an industry as defined under Section 2(J) and the applicant workman is a workman as defined in Section 2(s) of the Industrial Disputes Act, 1947?**
2. **Whether the applicant workman was recruited as a Computer Operator/Lower Division Clerk against sanctioned vacancy, following recruitment procedure and also whether he had the requisite qualification for the job he was recruited?**
3. **Whether the applicant workman was initially recruited through contractor as a contractor worker on outsourcing?**
4. **Whether the workman has been in continuous service of the management from the date of his first appointment till date and whether his termination is against law?**
5. **Whether the applicant workman is entitled to be classified as Category-III/Class-III employee for the post of Computer Operator/Lower Division Clerk , if yes from which date?**

11. **ISSUE NO.1:-**

Before proceeding it is necessary to enumerate Section 2(J) and Section 2(S) of the Industrial Disputes Act, 1947 as below:-

Section 2(S)-

“workman” means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person-

- (i) **who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or**
- (ii) **who is employed in the police service or as an officer or other employee of a prison, or**
- (iii) **who is employed mainly in a managerial or administrative capacity, or**
- (iv) **who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.]**

2(j) “industry” means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen;

12. In the case of **Rajkumar Vs. Director Education Civil appeal No.1020/2011** Hon`ble the Apex Court has held that educational institution is industry as defined under Section 2(J) of the Act. As regards the

University, Hon'ble the Apex court has referred to the Judgment of Seven Judges Bench in the case of **Bangalore Water Supply & Sewerage Board Vs. R.Rajappa and Others , (1978) Scr (3) 207**, the relevant portion is being reproduced as follows:-

“The issue whether educational institution is an ‘industry’, and its employees are ‘workmen’ for 4 (1997) 5 SCC 737 ,the purpose of the ID Act has been answered by a Seven-judge Bench of this Court way back in the year 1978 in the case of Bangalore Water Supply (supra). It was held that educational institution is an industry in terms of Section 2(j) of the ID Act, though not all of its employees are workmen. It was held as under: “The premises relied on is that the bulk of the employees in the university is the teaching community. Teachers are not workmen and cannot raise disputes under the Act. The subordinate staff being only a minor category of insignificant numbers, the institution must be excluded, going by the predominant character test. It is one thing to say that an institution is not an industry. It is altogether another thinking to say that a large number of its employees are not ‘workmen’ and cannot therefore avail of the benefits of the Act so the institution ceases to be an industry. The test is not the predominant number of employees entitled to enjoy the benefits of the Act. The true test is the predominant nature of the activity. In the case of the university or an educational institution, the nature of the activity is, ex hypothesi, education which is a service to the community. Ergo, the university is an industry. The error has crept in, if we may so say with great respect, in mixing up the numerical strength of the personnel with the nature of the activity. Secondly there are a number of other activities of the University Administration, demonstrably industrial which are severable although ancillary to the main cultural enterprise. For instance, a university may have a large printing press as a separate but considerable establishment. It may have a large fleet of transport buses with an army of running staff. It may have a tremendous administrative strength of officers and clerical cadres. It may have karamcharis of various hues. As the Corporation of Nagpur has effectively ruled, these operations, viewed in severalty or collectively, may be treated as industry. It would be strange, indeed, if a university has 50 transport buses, hiring drivers, conductors, cleaners and workshop technicians. How are they to be denied the benefits of the Act, especially when their work is separable from academic teaching, merely because the buses are owned by the same corporate personality? We find, with all defence, little force in this process of nullification of the industrial character of the University's multi-form operations.” (emphasis laid by this Court)

Hence, in the light of aforesaid judgment, the Dr.Hari Singh Gaur University non teaching staff is held to be workmen as defined under Section 2(S) and 2(J) and for this purpose, the University is held to be an Industry as defined under Section 2(J) of the Industrial Disputes Act,1947. **Issue No.1 is answered accordingly.**

14. **ISSUE NO.2 & 3:-**

Since these issues are inter related, they are being taken together.

According to the workman Union, the applicant workman was initially appointed on 17-6-2013 on the post of Computer operator which was a duly sanction and vacant post. He had the requisite qualification for the post he was a Bachelor in Arts in short hand and typing certificate in Hindi and English also Post Graduate Diploma in Computer Operations. It is in the evidence of the workman that University had a duly constituted Selection committee headed by then Vice Chancellor, the Registrar and other Professors were the Members of the Committee who after initial scrutiny, of his application and documents filed by him in response to vacancy notification interviewed him personally and thereafter his name figured in the list of selected candidates. The workman witness further stated that the case of the management that the workman was an outsourced employee is against fact. He further states in his evidence that inspite of artificial breaks of one day after every 59 days he had completed 240 days in every year including the year preceding the date of his termination. He also states that the Management did not prepare any seniority list and did not follow the principle of first come and last go, also did not pay any compensation or notice. He also states that when he had raised a dispute with the Assistant Labour Commissioner, the Management illegally terminated his services in violation of section 33 of Industrial Disputes Act,1947. This statement of workman which is on oath is uncross-examined. Exhibit W-26 which is copy of his educational qualifications goes to show that he is a graduate having required diploma in shorthand and typing in Hindi and English and also had computer diploma at the time when he was first appointed.

The case of Management is mainly that the workman was never engaged by the University. He was an outsourced employee. The Management does not disclose the name of the contractor through which the workman was outsourced in its pleadings nor has lead any evidence oral or documentary as to who was the contractor though which the services of the workman was outsourced.

Secondly, the RTI documents mentioned above show that the payment to the workman was done by the University itself and not through any contractor. Also that the provident fund of this workman was also deposited by the Management itself, the RTI documents regarding the attendance of the workman corroborate

his case that he has worked continuously for 240 days in every year including the year preceding the date of his termination.

As pleaded by Workman Union, the management neither prepared any seniority list nor has followed the principle of first come last go also that no notice or compensation was given to the workman on his retrenchment. The workman witness has corroborated this allegation in his affidavit as his Examination in Chief. Management has not filed any document or evidence in rebuttal, hence, this allegation of the workman Union also stands proved.

Section 25B, 25F, Section 25G and Section 25H of the Industrial Disputes Act, 1947 and Rules 76 and 77 of Industrial Disputes Central Rules, 1957 are being reproduced as follows:-

Section 25 B:-

Definition of continuous service.-

(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman; (2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer- (a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than- (i) one hundred and ninety days in the case of a workman employed below ground in a mine; and (ii) two hundred and forty days, in any other case; (b) for a period of six months, if the workman, during a period of six calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than- (i) ninety-five days, in the case of a workman employed below ground in a mine; and (ii) one hundred and twenty days, in any other case.

25F. Conditions precedent to retrenchment of workmen.- No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice: 1[***] (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay 2[for every completed year of continuous service] or any part thereof in excess of six months; and (c) notice in the prescribed manner is served on the appropriate Government 3[or such authority as may be specified by the appropriate Government by notification in the Official Gazette.]

25G. Procedure for retrenchment.- Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman.

25H. Re-employment of retrenched workmen.- Where any workmen are retrenched and the employer proposes to take into his employ any persons, he shall, in such manner as may be prescribed, give an opportunity 2[to the retrenched workmen who are citizens of India to offer themselves for re-employment, and such retrenched workmen] who offer themselves for re-employment shall have preference over other persons.

76. Notice of retrenchment.—If any employer desires to retrench any workman employed in his industrial establishment who has been in continuous service The Industrial Disputes (Central) Rules, 1957 for not less than one year under him (hereinafter referred to as 'workman' in this rule and in rules 77 and 78), he shall give notice of such retrenchment as in Form P to the Central Government, the Regional Labour Commissioner (Central) and Assistant Labour Commissioner (Central) and the Employment Exchange concerned and such notice shall be served on that Government, the Regional Labour Commissioner (Central), the Assistant Labour Commissioner (Central), and the Employment Exchange concerned by registered post in the following manner:— (a) where notice is given to the workman, notice of retrenchment shall be sent within three days from the date on which notice is given to the workman; (b) where

no notice is given to the workman and he is paid one month's wages in lieu thereof, notice of retrenchment shall be sent within three days from the date on which such wages are paid; and (c) where retrenchment is carried out under an agreement which specifies a date for the termination of service, notice of retrenchment shall be sent so as to reach the Central Government, the Regional Labour Commissioner (Central), the Assistant Labour Commissioner (Central), and the Employment Exchange concerned, at least one month before such date: Provided that if the date of termination of service agreed upon is within 30 days of the agreement, the notice of retrenchment shall be sent to the Central Government, the Regional Labour Commissioner (Central), the Assistant Commissioner (Central), and the Employment Exchange concerned, within 3 days of the agreement.

77. Maintenance of seniority list of workmen.—The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment.

From the aforesaid discussion, following facts are held proved:-

A. There was a vacancy with the management at the time when the workman was given appointment.

B. The workman had requisite qualification for the post.

C. The case of the Management that the workman was outsourced employee could not be proved.

D. The case of the workman that he was appointed following recruitment procedure prevalent at the time stands proved. He worked under the direct control, supervision and direction of Management, in the Office of management and his wages were paid to him by Management only and not through any contractor.

E. The workman has successfully proved his continuous employment of more than 240 days in every year inspite of break of one day after every 59 days with the Management.

F. Mandatory Rules of prior notice and compensation as well preparation of seniority list of daily wagger/muster roll employee were not prepared and principle of first come and last has not been followed.

IN the light of the above findings, Issue No.2 & 3 are answered accordingly.

15. **ISSUE NO.4:-**

From the aforesaid discussion, the fact that there a vacancy for the post on which the applicant workman is working and that the applicant workman as requisite qualification of the post as well as that he has been recruited following the procedure established as mentioned above. Learned Counsel for the workman has referred to an Industrial Employment Standing Orders Act, 1946, Clause 2(b) of Industrial Employment (Standing Orders) Central Act 1946 which deals with the classification of the workman referred to by learned counsel for the workman Union is being reproduced as follows:-

THE INDUSTRIAL EMPLOYMENT (Standing Orders) Act, 1946

This Act is to require employers in industrial establishments to formally define conditions of employment under them and submit draft standing orders to certifying Authority for its Certification. It applies to every industrial establishment wherein 100 (reduced to 50 by the Central Government in respect of the establishments for which it is the Appropriate Government) or more workmen are employed. And the Central Government is the appropriate Government in respect of establishments under the control of Central Government or a Railway Administration or in a major port, mine or oil field. Under the Industrial Employment (Standing Orders) Act, 1946, all RLCs(C) have been declared Certifying Officers to certify the standing orders in respect of the establishments falling in the Central Sphere. CLC(C) and all Dy.CLCs(C) have been declared Appellate Authorities under the Act.

16. In the case of **M.P.State Road Transport Corporation Vs. Heeralal and Chhedalal & Others**(Manu/MP 0138/1974) decided by the 5 Judges Bench of Hon'ble High Court of M.P., it has been held that in case of any discrepancy in the Standing Orders and Rules made by the Industrial

Establishment, the former shall prevail. Hon'ble High Court has referred to another decision of Hon'ble Supreme Court in U.P.State Electricity Board Vs. Hari Shankar Jain & another (1997) SC 65 which has laid down the same prepositions, hence so far as the case of the applicant workman is concerned his rights will be governed by the standard Clause 2(b) of Industrial Employment (Standing Orders) Central Act 1946 mentioned as above. This is also established on record documentary/statement of applicant workman for he has been discharging duties similarly to that done by the regular staff.

17. Reference of Section 25(T) and Scheduled V of the Unfair Labour Practice of the Industrial Disputes Act, 1947 which deal with prohibition of unfair labour practice requires to be mentioned here which are being reproduced as follows:-

[CHAPTER VC

UNFAIR LABOUR PRACTICES

25T. Prohibition of unfair labour practice.—No employer or workman or a trade union, whether registered under the Trade Unions Act, 1926 (18 of 1926), or not, shall commit any unfair labour practice.

Schedule V of Industrial Disputes Act, 1947 deals with unfair labour practices adopted by employer, is being reproduced as follows:-

FIFTH SCHEDULE : Unfair Labour Practices

[Section 2(ra)]

I. ON THE PART OF EMPLOYERS AND TRADE UNIONS OF EMPLOYERS

- (1) To interfere with, restrain from, or coerce, workmen in the exercise of their right to organize, form, join or assist a trade union or to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, that is to say,-
 - (a) threatening workmen with discharge or dismissal, if they join a trade union;
 - (b) threatening a lock-out or closure, if a trade union is organized;
 - (c) granting wage increase to workmen at crucial periods of trade union organization, with a view to undermining the efforts of the trade union at organization.
- (2) To dominate, interfere with or contribute support, financial or otherwise, to any trade union, that is to say,
 - (a) an employer taking an active interest in organizing a trade union of his workmen; and
 - (b) an employer showing partiality or granting favor to one of several trade unions attempting to organize his workmen or to its members, where such a trade union is not a recognized trade union.
- (3) To establish employer sponsored trade unions of workmen.
- (4) To encourage or discourage membership in any trade union by discriminating against any workman, that is to say,
 - (a) discharging or punishing a workman, because he urged other workmen to join or organize a trade union;
 - (b) discharging or dismissing a workman for taking part in any strike (not being a strike which is deemed to be an illegal strike under this Act);
 - (c) changing seniority rating or workmen because of trade union activities;
 - (d) refusing to promote workmen of higher posts on account of their trade union activities;
 - (e) giving unmerited promotions to certain workmen with a view to creating discord amongst other workmen, or to undermine the strength of their trade union;
 - (f) discharging office-bearers or active members of the trade union on account of their trade union activities.
- (5) To discharge or dismiss workmen-

- (a) by way of victimization;
 - (b) not in good faith, but in the colorable exercise of the employer's rights;
 - (c) by falsely implicating a workman in a criminal case on false evidence or on concocted evidence;
 - (d) for patently false reasons;
 - (e) on untrue or trumped up allegations of absence without leave;
 - (f) in utter disregard of the principles of natural justice in the conduct of domestic enquiry or with undue haste;
 - (g) for misconduct of a minor technical character, without having any regard to the nature of the particular misconduct or the past record or service of the workman, thereby leading to a disproportionate punishment.
- (6) To abolish the work of a regular nature being done by workmen, and to give such work to contractors as a measure of breaking a strike.
- (7) To transfer a workman mala fide from one place to another, under the guise of following management policy.
- (8) To insist upon individual workmen, who are on a legal strike to sign a good conduct bond, as a precondition to allowing them to resume work.
- (9) To show favoritism or partiality to one set of workers regardless of merit.
- (10) To employ workmen as "badlis", casuals or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of permanent workmen.
- (11) To discharge or discriminate against any workman for filing charges or testifying against an employer in any enquiry or proceeding relating to any industrial dispute.
- (12) To recruit workman during a strike which is not an illegal strike.
- (13) Failure to implement award, settlement or agreement.
- (14) To indulge in acts of force or violence.
- (15) To refuse to bargain collectively, in good faith with the recognized trade unions.
- (16) Proposing or continuing a lock-out deemed to be illegal under this Act.

18. It is now established that giving artificial break of one or two days at certain time establishes the fact that the management of University has adopted un fair labour practice keeping in view the fact that the same work continued after break and the same persons was engaged for that break even after breaks. Reference of case law **Secretary State of Karnataka and Uma Devi & Others 2006 AIR SCW 1991** has been taken by Management in its written statement of defence but since in the case in hand it has been proved that the applicant workman was not appointed through a back door entry rather he entered in the service after undergoing the recruitment procedure prevalent at that time, hence, the law laid down in that case does not apply to the case in hand. Judgement of Hon'ble the Apex Court in the case of **State of U.P. Vs. Pooranchand Pandey Appeal (civil) 3765 of 2000** and **Harinandan Prasad Vs. Food Corporation of India & Ors. Appeal (civil) 3765 of 2000** require to be mentioned in this respect. Accordingly, the termination of applicant workman is held against law. **Issue No.4 is answered accordingly.**

19. **ISSUE NO.5:-**

Learned Counsel for workman has referred to decision of Hon'ble the Apex Court in the case of **Jeetu Bha Khan Sanghji Jadega Vs. Kuch District panchayat, Civil Appeal No.6890/2022/SLP Civil No.8393/2022.**

Hence, in the light of the above, discussion and finding, the claim of the applicant workman is held proved and he is held entitled to reinstatement without back wages from the date of his retrenchment till the date of award and is also held entitled for permanent classification in Class-III for the post of Computer Operator/ Assistant Gr-III with Grade Pay admissible to him from the completion of six months from the date of his initial appointment and is also held entitled to be treated in continuous service of Management for all service benefits except back wages. **Issue No.5 is answered accordingly.**

20. On the basis of the above discussion, following award is passed:-

A The action of Management in terminating the services of Shri Sonu Bohat after his appointment with the Management on 16-9-2013 and not classifying his services as Computer operator/Assistant Gr-III, is held to be unjustified in law and fact.

B. The workman is held entitled to reinstatement without back wages from the date of his retrenchment till the date of award and is also held entitled for permanent classification in Class-III for the post of Computer Operator/ Assistant Gr-III with Grade Pay admissible to him from the completion of six months from the date of his initial appointment and is also held entitled to be treated in continuous service of Management for all service benefits except back wages.

21. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P.K. SRIVASTAVA, Presiding Officer

DATE: 19/10/2022

नई दिल्ली, 23 दिसम्बर, 2022

का.आ. 1396.—औद्योगिक विवाद अधिनियम, 1947(1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुख्य महाप्रबंधक, टेलीकॉम फैक्ट्री, राइट टाउन, जबलपुर (म.प्र.) के प्रबंधन के संबद्ध नियोजकों और सचिव, अखिल भारतीय डाक एवं तार, औद्योगिक श्रमिक संघ, टेलीकॉम फैक्ट्री, राइट टाउन, जबलपुर, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट के (संदर्भ सं. CGIT/LC/R/176-96) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 12/12/2022 को प्राप्त हुआ था।

[सं. एल-40011/1/95- आईआर-(डीयू)]

डी.के. हिमांशु, अवर सचिव

New Delhi, the 23rd December, 2022

S.O. 1396.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/176-96) of the Central Government Industrial Tribunal cum Labour-Jabalpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Chief General Manager, Telecom Factory, Wright Town, Jabalpur (M.P.) and The Secretary, All India Post & Telegraph, Industrial workers Union, Telecom Factory, Wright Towan, Jabalpur, which was received along with soft copy of the award by the Central Government on 12/12/2022.

[No. L- 40011/1/95- IR (DU)]

D.K. HIMANSHU, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/176-96

Present: P.K.SRIVASTAVA, H.J.S..(Retd)

Shri Ram Ratan Paras,
Secretary
All India Post & Telegraph
Industrial workers Union,
Telecom Factory,
Wright Towan, Jabalpur

Versus

... Workman

The Chief General Manager
Telecom Factory, Wright Town

Jabalpur (M.P.)

... Management

AWARD**(Passed on 31-8-22.)**

As per letter dated 30-8-1996 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-40011/1/95-IR(DU). The dispute under reference relates to:

“Kya Prabhandtantra, Telecom Factory, Jabalpur(M.P.) ke prabhandako dwara All India Post And Telegraph Industrial Workers Union ke sadsya Padhadhikari sarv Shri D.K.PalEvam Shri Lalsingh ke virudh sangh ke gatividhiyon par nillamban aaroop patran dene evam Karan BAtao Suchana patra dekar prastavet sewabarkhastagge ka dand aadi karyawahi aodyogek vevad adhiniyam ke Panch Shedule(Anuchet Shram Neerti) ke Kandeka 2(b),4(a),(b)(f),5(f),(b)(g) ke antargat anuchet sharam neeti apnaye jaane ke karyawahi hai. Yadi nahi to sambndhit karmkargan kes anutosh ke haqdar hain? .”

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their statement of claim/defence.

2. The case of the workman as stated in their statement of claim was that there was a self generated agitation of Trade Union of workers of Tower Section of the Management Factory on 4-2-1991 and 5-2-1991 against the wrongful suspension of three Chageman namely P.D.Jha, Shri Mohd. Sidiqi and Shri Thomas in which all the workers of Tower Section including the applicant workman Lal Singh, D.K.Pal and R.D.Khamparia who were the Union Leaders had actively participated in the strike. The management of the Telecom Factory instituted a departmental inquiry against these three union leaders out of prejudice and as a means of revenge in order to victimize the Union Leaders. It is further the case of the workman Union that hundreds of workman also participated in the strike but their office bearers were left out and Management instituted a Departmental Inquiry as a means of hostile discrimination against the applicant workman Union. The Inquiry was conducted against the principle of law and Natural justice. The charges were wrongly held proved by the Inquiry Officer and the workman were awarded maximum punishment of termination on the charge of participating in the strike, leaving out several hundred workers who have also participated in the strike. During the inquiry, the charge of igniting the workers for stopping work and leading the agitation was found not proved against the applicant workman, Lal Singh, D.K.Pal and Shri R.D.Khamparia. The only charge which was held proved by the Inquiry Officer was their participation in the agitation like hundreds of other workers. The workman Union, the applicant workman preferred departmental appeal against the punishment order. The Appellate Authority set aside the punishment of dismissal and reduced the punishment of reduction on the minimum pay scale for indefinite period treating eight years of suspension period of workman Shri D.K.Pal, as non-duty, which is unfair labour practice adopted by the management. According, to the workman Union, the Management acted arbitrarily in awarding punishment only because the applicant workman were Office Bearers of the Workman Union, to which the Management was hostile. Accordingly, it has been prayed that setting aside the punishment order, appropriate action against management be taken for adopting unfair labour practice.

3. According to the management, the workman R.D.Khamparia, D.K.Pal and Lal Singh instigated the workers of the shop to go on strike and took law and order in their own hand by not allowing the Officers to enter the shop, making them standing outside and gheroing them and physically pushing them backward and even physically holding the hand of SE(MWT) by Shri R.D.Khamparia along with Other Officers in his Office Chambers for more than four and a half hours. They wrongly confined the Officers of the management, shouted filthy abuses on officers which is grave misconduct as per Certified Standing Orders. They were placed under suspension for the charges w.e.f. from 6-2-1992 and were served major charge sheet. The Inquiry Officer and the Presenting Officer were appointed and inquiry was conducted as per Rules. The inquiry against Workman R.D.Khamparia was concluded with Inquiry Report dated 12-6-2000, holding the aforesaid charges proved. He was awarded punishment of compulsory retirement w.e.f 18-10-2000. IN the case of workman D.K.Pal, the inquiry completed holding the charges proved after issuing a show cause notice on proposed penalty, he was awarded punishment of dismissal from service. Taking a lenient view, the Appellate Authority converted the punishment of dismissal into reduction of his pay from Rs.922/- to Rs.800/- in the pay scale of Rs.800/- to Rs.1150 vide order dated 5-3-1999. In case of Lal Singh he was awarded punishment of dismissal from service vide order dated 12-7-1994, on the basis of inquiry report holding the aforesaid charges proved against him. This order was also converted by Appellate Authority into reduction of his pay from Rs.1125 to Rs.950/- in the pay scale of Rs.950-1150-EB-25-1500. According to the Management, the punishment is not disproportionate.

4. Following preliminary issue was framed on the basis of pleadings by my learned Predecessor vide his order dated 23-4-2007:-

“Whether the Departmental inquiry conducted by Management is legal and proper.”

5. The workman Union filed affidavit of workman D.K.Pal on preliminary issue. He never appeared for cross-examination. The Management filed affidavit of Jaswant Singh. He also never appeared for cross-examination. Thereafter Management filed affidavit of its witness Raju Sapre and Rakesh Sahu, they also have not appeared for cross-examination. The Management filed Inquiry Papers which were admitted by workman union and marked as Exhibit M1 to M20.

6. Preliminary Issue No.1 was decided vide order dated 16-6-2022, holding the departmental inquiry legal and proper. This order is part of this Award.

7. Vide his order dated 23-4-2007, two other issues were framed which are as follows:-

(1) Whether the Management is entitled to prove the misconduct of the workman?

(2) To what relief, if any, are the workman entitled?”

8. Parties were directed to lead evidence on the remaining two issues. No evidence was adduced by any of the parties. None of the parties appeared at the time of argument and no written argument was filed by any of the parties. I have perused the record.

9. ISSUE NO.2:-

In the light of the findings recorded in Issue No.1 as preliminary issue, this order is decided against the management. **Issue No.2 is answered accordingly.**

10. ISSUE NO.3:-

Issue No.3 requires following points to be considered:-

(A)Whether the charges are proved from the inquiry papers?

(B)Whether the punishment awarded is disproportionate to the charges?

11. POINT-A:-

The charges against the applicant workman are that on 4-2-1991 and 5-2-1991 they instigated the workman in the Telecom Factory to go on strike and also they illegally detained the Officers of the Management in their chambers shouting slogans against the Officers. They committed misconduct as punishable under Section 31(c) II of Certified Standing Orders. The charges which are held proved according to the Inquiry Officer in the inquiry report are that the applicant workman participated in the strike along with other workers of Tower Section and restrained them from working. The charge that they instigated the workman to go on strike and stop work was found not proved as it is clear from the perusal of the inquiry report. The charge that the applicant workman illegally confined the Officers of the Management for around four hours and shouted slogans against them was also found proved. I have gone through the inquiry papers filed by the Management and admitted by the workman Union. The Officers of the management who were detained by the applicant workman have supported the charge. The other witness have also supported the charges proved, hence the finding of the Inquiry Officer regarding proof of the charges as stated above cannot be held without basis. Accordingly the charges as mentioned above in the Inquiry Report are held proved.

12. POINT NO-B:-

As it comes out from perusal of the inquiry papers that these three workers were punished with dismissal from service with respect to the charges by the Disciplinary Authority. This punishment was modified by Appellate Authority which has been detailed earlier.

It is admitted proposition of law that the Court cannot sit in appeal or it cannot re-appreciate the evidence relied before Inquiry Officer; in as much as it cannot alter the order or punishment; however, the scope of invoking the powers given under Section 11 A of the Act, by the Labour Court is confined to the condition that the Court should interfere with the order of punishment when it is disproportionate with respect to the misconduct committed or it is harsh.

1. Hon'ble Apex Court in **B.C. Chaturvedi v. Union of India, (1995) 6 SCC 749** while discussing about the scope of judicial review, in disciplinary matters, has observed as under:

“The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mold the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, imposed appropriate punishment with cogent reasons in support thereof.”

2. In **DG, RPF vs. Sai Babu (2003) 4 SCC 331**, Hon'ble Apex Court has observed that:

Normally, the punishment imposed by a disciplinary authority should not be disturbed by the High Court or a tribunal except in appropriate cases that too only after reaching a conclusion that the punishment imposed is grossly or shockingly disproportionate, after examining all the relevant factors including the nature of charges proved against, the past conduct, penalty imposed earlier, the nature of duties assigned having due regard to their sensitiveness, exactness expected of an discipline required to be maintained, and the department /establishment which the delinquent person concerned works."

3. In **United Commercial Bank vs. P.C. Kakkar (2003) 4 SCC 364** Hon'ble Apex Court on review of a long line of cases and the principles of judicial review of administrative action under English law summarized the legal position in the following words:

The common thread running through in all these decisions is that the court should not interfere with the administrators' decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in Wednesbury case the court would not go into the correctness of the choice made by the administrator open to him and the court should not substitute its decision to that of the administrator. The scope of judicial review is judicial review is limited to the deficiency in decision-making process and not the decision.

To put it differently, unless the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the court/tribunal, there is no scope for interference. Further, to shorten litigation it may, in exceptional and rare cases, impose appropriate punishment by recording cogent reasons in support thereof."

4. In **Union of India vs. S.S. Ahluwalia (2007) 7 SCC 257** Hon'ble Supreme Court reiterated the legal position as follows:

"..... The scope of judicial review in the matter of imposition of penalty as a result of disciplinary proceedings is very limited. The court can interfere with the punishment only if it finds the same to be shockingly disproportionate to the charges found to be proved."

5. In **State of Meghalaya v. Mecken Singh N. Marak (2008) 7 SCC 580** Hon'ble Supreme Court stated that:

"The punishment imposed by the disciplinary authority or the appellate authority unless shocking to the conscience of the court, cannot be subjected to judicial review.

6. Hon'ble Apex Court in **Administrator, Union Territory of Dadra and Nagar Haveli vs. Gulbhia M. Lad (2010) 2 SCC (L&S) 101** has observed that :

"The legal position is fairly well settled that while exercising the power of judicial review, the High Court or a Tribunal cannot interfere with the discretion exercised by the disciplinary authority, and/or on appeal the appellate authority with regard to the imposition of punishment unless such discretion suffers from illegality or material procedural irregularity or that would shock the conscience of the court/tribunal. The exercise of discretion in imposition of punishment by the disciplinary authority or appellate authority is dependent on host of factors such as gravity of misconduct, past conduct, the nature of duties assigned to the delinquent, responsibility of the position that the delinquent holds, previous penalty, if any, and the discipline required to be maintained in the department or establishment he works. Ordinarily the court or the tribunal would not substitute its opinion on reappraisal of facts.

7. **Hon'ble Apex Court in (2011) 1 Supreme Court Cases (L&S) 721** has observed that:

It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the inquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, the courts will not interfere with findings of fact recorded in departmental inquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or findings, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of

natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations.

13. On perusal of the punishment order passed by the Appellate Authority in the Appeal goes to show that the punishment order of dismissal passed with respect to workman R.D.Khamparia was converted into that of compulsory retirement by the Appellate Authority and the punishment order of dismissal passed with respect to the workman D.K.Pal and Lal Singh was converted into reduction of increments from Rs.1125/- to Rs.950/- with respect to Lal Singh and From Rs.922 to Rs.800/- with respect to D.K.Pal. the inquiry report further goes to show that the charges proved against these workman are one and same for different for which two sets of punishment have been awarded to these workman i.e. compulsory retirement to one and reduction of increment with cumulative effect to the other workman. This is also established from the inquiry proceedings that along with these three workman the other workman mentioned in the inquiry report were also found involved in the stoppage of work and gheroing the officers of the Management. The Management is silent as to what punishment was imposed to those workman, mainly Shivcharan, Nasuruddin, Holmes and Others as mentioned in the inquiry papers dated 4-11-1993. Thus the picture which emerges is that some workers Shivnarayan etc. who were found participating in the strike/stoppage of work were let out without any punishment and only three workman who are applicant workman in this case were selected for punishment. Since it is disputed by Management that these applicant workman were Union Representative, hence, the Management decided to impose punishment on the applicant workman because they were Union Representatives involved in the Union activity with an intention that this action of Management will have chilling effect on Union activities and in future those Union representatives who might raise the grievances of workman would be deferred from raising the grievance. Hence in these circumstances, the action of Management in punishing the applicant workmen is nothing but arbitrary and discriminatory and is with a view to deter them in participating in Union activities in future. But since they have been held guilty for participating in strike/stoppage of work and gheroing officers of Management along with other workers who have been allowed to go free without being punished, they require to be punished but not with the punishment awarded in the case in hand. Keeping in view all the facts and circumstances as stated above, stoppage of two increments to all the three workman for a period of three years for both the charges will meet the ends of justice. Accordingly holding the punishment awarded to the workman as excessive, they are held liable to be punished for stoppage of two increments for three years and **Point No.B is answered accordingly.**

14. On the basis of the above discussion, following award is passed:-

- A. The action of the management in awarding punishment of stoppage of increments with cumulative effect to D.K.Pal, Lal Singh is held to be excessive and unjustified in law.**
- B. The workmen are held liable for punishment of stoppage of two increments with non-cumulative effect for three years. Rest of the conditions of punishment will remain the same as passed by the Appellate Authority in their case.**
- C. Parties to bear their own cost.**

15. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P.K. SRIVASTAVA, Presiding Officer

DATE: 31-8-2022

नई दिल्ली, 23 दिसम्बर, 2022

का.आ. 1397.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुख्य महाप्रबंधक, दूरसंचार, भारत संचार निगम लिमिटेड, भोपाल, (म.प्र.); एम/एस एस कुमार, भोपाल (एमपी) के प्रबंधतंत्र के संबद्ध नियोजकों और श्री रविकान्त पंत, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट के (संदर्भ सं. CGIT/LC/R/16/2015) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 12.12.2022 को प्राप्त हुआ था।

[सं. एल-40012/04/2015- आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 23rd December, 2022

S.O. 1397.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/16/2015) of the Central Government Industrial Tribunal cum Labour–Jabalpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Chief General Manager, Telecom, Bharat Sanchar Nigam Ltd. Bhopal, (M.P.); M/s S.Kumar, Bhopal(MP) and Shri Ravi Kant Pant, Worker, which was received along with soft copy of the award by the Central Government on 12/12/2022.

[No. L-40012/04/2015- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM- LABOUR COURT, JABALPUR

NO. CGIT/LC/R/16/2015

Present: P.K. SRIVASTAVA, H.J.S..(Retd)

Shri Ravi Kant Pant,
Vijay Nagar,
Near Milan Bungalow
Lalghati, Bhopal(M.P.)

... Workman

Versus

The Chief General Manager,
Telecom, Bharat Sanchar Nigam Ltd.
BSNL, Bhawan,
M. P. Circle Hoshangabad Road,
Bhopal (M.P.)

2. M/s S.Kumar
F-1 Lotus Villa,
Shalimar Garden
Kolar road, Bhopal (MP)

... Management

AWARD

(Passed on 12-9-2022.)

As per letter dated 17/2/2015 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-40012/04/2015-IR(DU). The dispute under reference relates to:

“Whether the action of the management of Chief General Manager Telecom, Bharat Sanchar Nigam Ltd. Bhopal in terminating the services of Shri Ravikant Pant w.e.f. 9-11-2013 is justified? If not, to what relief the workman is entitled for?”

1. After registering the case on the basis of reference, notices were sent to the parties.
2. The workman never appeared inspite of service of notice on him and nor has filed any written statement of claim.
3. The Management has filed its written statement of defence wherein it was denied that the workman was even engaged by the management. The ex-parte affidavit filed by the Management is taken on record. Since no one appeared from the side of the workman on the dates fixed the reference proceeded ex-parte against the workman.
4. The Ex-parte arguments of learned counsel for the Management Shri R.S.Khare were heard. I have gone through the record as well.

5. The initial burden to prove their claim lies on the workman. He has not filed any statement of claim nor has he filed any documents or evidence in his support. The workman has miserably failed to prove his case of continuous engagement with the Management. Hence this tribunal is constrained to decide the reference against the workman.

6. Accordingly an ex-parte award in favour of the Management is passed. The workman is held entitled to no relief.

7. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P.K. SRIVASTAVA, Presiding Officer

DATE: 12-9-2022